United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, FIRST SESSION

## SENATE—*Saturday, November 20, 1993*

*(Legislative day of Tuesday, November 2, 1993)*

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. FEINGOLD].

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.*—Ephesians 6:12

Almighty God, in the Senate's battle against crime, poverty, unemployment, teenage problems, education and all the troubles of the world, it becomes increasingly apparent that the real warfare transcends the material and the secular.

When Gen. Douglas MacArthur spoke to the joint Congress after the Pacific war, he insisted that war was no longer a solution—it was totally destructive, that the problem was theological, and that if we would save the flesh, we must save the spirit. General MacArthur understood that the battle is basically spiritual.

As the Senators have a period free from legislative pressure, help them to contemplate the necessity for spiritual and moral renewal in our Nation. Remind them of the spiritual, moral consensus of our Founding Fathers which conceived this Nation and generated a political system that is the greatest in human history. Eternal God, restore to us the faith of our fathers. Renew us in the origins of our political legacy and lead us out of the futility that seems to increase daily.

For the glory of God and the welfare of our Nation. Amen.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, shortly the Senate will resume debate on the North American Free-Trade Agreement. I am advised that there are 3 hours and 10 minutes remaining for debate on that measure, and I anticipate that the Senate will complete all or almost all of that debate today.

There are a large number of measures which remain to be dealt with but only two which are contested and will require recorded votes. Those are the North American Free-Trade Agreement and the unemployment insurance extension. It is my hope—my strong hope—that we can complete action on both of those measures today.

Following lengthy meetings last evening, we were unable to reach agreement on a procedure for resolving the unemployment insurance matter. Those discussions will resume immediately this morning. I hope we can reach an agreement.

I have made clear that the vote on NAFTA will be the last recorded vote in this Congress and we must resolve unemployment insurance before we have the final vote on NAFTA; that is to say, if we do not resolve the unemployment insurance matter today and it is required that we put it off until next week, we will also then put off the vote on NAFTA. So that we will then have to return next week to complete action on both.

I very much hope that proves not to be the case and we can do both today so that those Senators who have other commitments will not be required to return on Monday when the Senate will return to session, but Senator DOLE and I will be here to deal with the remaining matters, all of which can be handled by consent and without the necessity for recorded votes.

So I merely want to say to Senators that, as they know, I have been trying hard to have this session completed prior to Thanksgiving. About 2 weeks ago we all thought it would be great if we could get out by next Wednesday. Expectations have been increasing at a steady rate. I am very pleased at that, but we have to do our business before we leave. I hope it can be today but that will depend upon our ability to reach agreement on unemployment insurance. So I wanted to make this statement so there can be no misunderstanding of where we are.

If we have to return next week because we cannot reach agreement on unemployment insurance, I will try very hard to have our return be as early in the week as possible. That will require some cooperation by Senators because if we cannot get consent on a procedure it may require us to be here as late as Wednesday. We will do that if necessary but I hope it will not be necessary.

So, I thank Senator WALLOP and Senator BAUCUS for coming in after two very long evenings to handle the debate on NAFTA and I will now yield the floor to them so that debate on that matter can resume.

As I indicated last evening, I do not know whether or not there will be votes today. It will depend upon the subjects I have just been discussing, particularly the unemployment insurance. But if there are votes, none will occur prior to noon. So no Senator need be present on the floor prior to then unless a Senator wishes to participate in the debate on the free-trade agreement.

### NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3450, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3450) to implement the North American Free-Trade Agreement.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.



AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the manager of the bill for all of the good work he has done in bringing this bill to the attention of the Senate.

In 221 B.C., China began construction of a great wall to surround their country. They built a wall because they were scared. They were scared of what was on the outside. They were scared of what the rest of the world would do. They were scared that they could not compete with the rest of the world, so they hid behind a wall. America will not build a wall in 1993 around our country. We are not a scared Nation. We are not afraid of what is on the outside. We are not afraid to compete.

Instead of building walls around our country it is time to build bridges to other nations: Bridges of commerce, bridges of technology, and bridges of trade. America's future cannot be built on fear, but rather must be based on boldness and a willingness to face challenges. America is a Nation of winners. We are not a Nation of losers. Our people do not run from competition. We do not run from a battle. America is a strong Nation because our people are strong and we will not hide behind a wall.

I congratulate President Clinton for his boldness in negotiating the NAFTA agreement. It is truly the measure of a new Democrat who is willing to compete in the world. It is a mark of a leader who wants America to compete in the future and not live in the past. It is controversial. It is controversial because it is new. It is controversial because it is bold. But it represents at the same time what makes our Nation great.

America has always looked forward and not backward. If President Clinton and the Congress thought that our American working men and women were second class, we would not have a NAFTA agreement. If we thought our workers were not the best in the world, we would not be writing a NAFTA agreement, we would be building a wall around our country. Walls are to hide behind. American workers hide from no one. Their skills and their knowledge have taken our Nation to the No. 1 spot of all industrialized nations in the world. It is an insult to American workers to even suggest that they cannot compete with Mexico unless it is from behind a wall of protection.

So, let us today, as a great Nation, say to the rest of the world: Knock down the walls. Let the competition begin. This Nation is not afraid to compete. We will not build a wall. We will, instead, pass a North American Free-Trade Agreement.

I think the NAFTA is clear in what it does for our country, for our Nation, the opportunities it provides for American workers who I think will prosper and increase in numbers as a result of a free-trade agreement. This agreement will say to our competitors around the world, we want to compete but we want to compete on even terms. We want to sell our products in Mexico without a 20-percent tariff that prevents our products from entering into their marketplace.

We have a General Motors plant in my State of Louisiana. They make pickup trucks. They do a very fine job because that plant is highly productive, it is modern, it is efficient. Our workers are smart, intelligent—they are the best in the world. No one can produce a pickup truck better than the workers in that plant in Shreveport, LA.

I met with those workers and they expressed their concern to me about a NAFTA agreement. They said they were afraid the Mexicans would be able to make that plant relocate down in Mexico because their wages were so much cheaper.

I said to those workers: You are the best in the world. You do not need a wall of protection for you to be able to compete with Mexican workers. You are physically located closer to Mexico than you are to Washington, DC. You make a product that Mexican men and women and families are going to need—a light pickup truck. And you have an opportunity, geographically and from a technological standpoint, to produce that product in that plant at a price that is better than they can do in Mexico.

So I conclude by saying this is a good agreement for America and American workers. We are not afraid to compete. Our workers are second to no one. America was built on competition and the ability to do better than any other country on the face of the Earth.

In this agreement, we will do better than our competition and we will be successful. That is why I support the NAFTA.

Mr. BAUCUS. Mr. President, I ask unanimous consent that 5 minutes from the Republican time be transferred to the proponents on the Democratic side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I also ask unanimous consent the Senator from Minnesota be recognized for 5 minutes and his time be charged against the Democratic opponents' time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Thank you, Mr. President. I wanted to briefly respond to the remarks of the Senator from Louisiana.

Those of us who oppose the North American Free-Trade Agreement are not trying to erect walls. We are trying to tear down the wall of repression and violation of human rights in Mexico.

In the post-cold-war period the United States of America, this administration, the Clinton administration, could have lit a candle by using trade policy to promote democracy and human rights in our closest neighbor to the south, Mexico. And that could have set the pattern for other trade agreements in Central America and South America and with other countries as well. But we did not do that and that is the tragedy of this agreement.

Mr. President, I suggest that to sign this trade agreement with a country that violates the human rights of its citizens, to sign a trade agreement that is linked to labor repression, goes against the core values of what we stand for as a nation. Every time I raise this question on the floor of the Senate, I must say, there has not been a direct response to it.

Working people in our country, average working families, are not afraid to compete. Their insight is based on a rigorous economic analysis. They understand that they will be in trouble, and their families will be in trouble, relative to wages of 59 cents an hour or $1 an hour or $2 an hour with high productivity in Mexico, because the wage earners in Mexico cannot join independent unions, because the government can outlaw strikes, and because when people seek redress of grievance, they can find themselves imprisoned. Why is our silence so deafening in this Chamber when it comes to these human rights questions?

Finally, I have heard my colleagues, in very good faith—some of whom I consider to be very good friends—talk about the insecurity of people in our country. That is what this is really about. I want to analyze in the brief time I have left part of the why of that insecurity.

Part of the why of that insecurity is the problem of representation. Regular citizens, which I mean in a positive sense, ask the question: Who decides to sign this trade agreement and who might lose their job?

They ask the question: Who decides that we should cut taxes for wealthy, high-income people in a 1981 agreement for which there was broad congressional support. And who cannot afford to send their children to school, to college?

They ask the question: Who decides that deficit reduction is the major goal of public policy, and whose children go without an adequate education, whose children go hungry?

They ask the question: Who decides that we cannot afford universal health care coverage, that we cannot afford a

comprehensive package of benefits, and whose families go without health care coverage?

They ask the question: Who decided that we cannot have an adequate appropriation of funding to make sure that there are programs for job retraining to address worker displacement, and whose families are going to be without jobs?

They ask the question: Who decides that we cannot invest in our economy and invest in high-paying jobs and invest in education and invest in opportunity, and whose families pay the price?

Mr. President, I suggest that this NAFTA agreement goes to the heart of the issue of representation. And the challenge for each and every one of us after this agreement passes, because it is going to pass in the Senate, is to do well for people when it comes to each and every one of those issues. Otherwise, there will continue to be a disconnect between the speeches that we give in the Chamber of the Senate and reality regarding the pressing issues in the lives of the people whom we represent.

That is what this is all about. For my own part, it was a core value to me, a moral issue to me to represent working people in this country. I worry that this trade agreement will not lead to the uplifting of the standards of the people in Mexico or the people in our country. And it saddens me to no end that the people I met in the shantytowns and the people I met who are not with the PRI, their voice never got heard here in the Chamber of the U.S. Senate. And the voices of many, many people in our country—I think perhaps the majority of people—did not really get heard when it came to their concerns about this trade agreement.

We are going to pass it, and I say after we pass it, let us move forward with good public policy in all these other areas. I say to all the people who oppose NAFTA, you can be proud, and you should keep on marching and you should keep on fighting, and you should demand accountability from all of us, Democrats and Republicans alike.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I now yield 7 minutes to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 7 minutes.

Mr. KERRY. Mr. President, I thank the Senator from Montana.

The Senator from Minnesota asked for a direct answer and I will, in the course of my comments, give him a direct answer to the issue he raises.

I would like to say at the outset that there are powerful reasons, a series of powerful reasons, for why we should support NAFTA. But there are also a powerful set of reasons why NAFTA has very little to do with the fundamental problems of the American workplace today and why the issues the Senator from Minnesota raises are absolutely valid, but they will neither be cured by nor deterred by the passage of NAFTA. They are a different set of issues.

First of all, NAFTA will create a net set increase in American jobs. We ought to understand that. It turns the one-way street we have today, because of the tariff imbalance, into a two-way street and clearly, on its face, without dispute, taking tariffs down from 2½ times our tariff level and the goods coming in increases the goods that will flow into Mexico. Every independent study shows this. I can cite a host of companies in Massachusetts—Gillette in south Boston that will go from $4 million of sales to $12 million of sales in a brief period of time because of that increase.

Second, NAFTA recognizes the reality of today's economy—globalization and technology. Our future is not in competing at the low-level wage job; it is in creating high-wage, new technology jobs based on our skills and our productivity. If we think America will be better off by closing down to compete with low wages, we will cease to be an economic superpower.

Third, NAFTA will inevitably increase the purchasing power of Mexicans, which will mean more American goods sold to Mexicans.

Fourth, it will have a long-term significant impact on illegal immigration by raising the wages of Mexicans and the opportunities of Mexicans so they do not feel the only place that they can go to get that opportunity is across the borders of the United States.

Fifth, it will contribute to the growth and the maturity of the Mexican economy and thereby alleviate some of the potential for social and political explosions which could set back progress. And there has been progress made. The Senator from Minnesota said what is the direct answer? The direct answer is that it is only by giving opportunity and raising the purchasing power of Mexicans that you will ultimately give them the capacity to claim greater say in their own country. That has been proven to happen in Eastern Europe, proven to happen in Asia, and it will happen also in Mexico.

The Senator from Connecticut, Senator DODD—who probably knows Mexico better than anybody in the Senate—has pointed out eloquently the importance of this measure in helping the progress that has been made to continue in Mexico.

Sixth, it will have a vital impact on our own efforts to create a new order in trade by helping to push the GATT process along, by helping to create a new relationship in Asia, and by helping the United States not to turn inwards but to turn outwards in its trade relationships and have a significant impact on those.

Seventh, it will improve markedly the current state of the environment. To not have NAFTA is to not begin cleanup and not link trade sanctions to environmental cleanup. To pass NAFTA is for the first time to link trade and the environment with an enforcement mechanism that will provide for cleanup. Without it, our citizens are injured by virtue of the environmental devastation in the maquiladora areas.

Eighth, it advances the cause of sustainable development by introducing into the entire trade agreement network this concept of trade sanctions as a means of leveraging environmental standards. This is a path-breaking measure which we should not lose.

Ninth, it acknowledges the inevitable integration between Mexico and the United States and it opens the door to that same integration to create one of the most powerful trading blocs in the world—the North-Southwestern Hemisphere trading bloc—and that is a vital effort as we watch China and Asia, the Asian tigers, emerge with even greater power today.

Mr. President, we have heard a great deal of talk about the differential in wages. People assert again and again that because the wages in Mexico are lower, that automatically means we are going to lose a lot of jobs. I dispute that. Harley Shaiken, of the University of California, San Diego, did a study that showed that the most sophisticated of the Mexican plants are able to compete against our level of productivity, but it points out also that there are very few of those plants in Mexico.

A recent Washington Post article showed that it will take many, many years before other plants in Mexico can get on line sufficiently to compete with our productivity level. Meanwhile, if we are doing the right things in the United States, we will be creating a whole new level of productivity and capacity by virtue of investment in this country.

Moreover, at this point in time, productivity in Mexico, on a whole, is far lower than in the United States. Gary Hufbauer, at the Institute of International Economics, estimates that the difference in productivity between the United States overall and Mexican maquiladora plants is seven times, which is exactly the same ratio as the difference in their wages. In fact, the average Mexican employee adds about $9,500 to the value of the widget that they build versus some $70,000 that an American worker adds to the value of the product that we make.

Now, Mr. President, it has been shown that if you look at the price of building a car, while wages are lower in Mexico, the fact is it is still cheaper to

build the car in the United States because of the fact that you have a differential in shipping costs, because our plants are better, because our workers are more skilled.

In the end, studies show that wage rates are only 2 percent of the cost of making an automobile in Mexico and 8 percent in the United States. There is an enormous differential in that other 92 percent of what makes up the cost of doing business. In that regard, the United States is far more competitive.

I might simply point out that if wages were the only ingredient of determining where people go, then Bangladesh would be a powerhouse, Costa Rica would be a powerhouse. But as we learned from the experience of Germany, there is——

The ACTING PRESIDENT pro tempore. The Senator has used 7 minutes.

Mr. KERRY. One additional minute.

Mr. President, let me just say in summary, NAFTA will open the door to more jobs in the United States. But unless the United States decides to pay attention to the real problems of the American worker, which are that we have 90 million Americans who are functionally illiterate, the fact that we pay too little attention to long-term investment, the fact that we are investing too little in our own infrastructure and not empowering entrepreneurial activity in this country, that is the problem of America, not NAFTA. If we will do what Germany does, where the wages are 60-percent higher than they are in America but they outcompete us in terms of exports, we will be stronger as a nation. We must pass NAFTA as a means of moving to this new future but, more importantly, we must pay attention to the real problems of the American workplace which demand an investment in education and in the skill level of the American worker.

I thank the distinguished Senator from Montana.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP. Mr. President, I yield 10 minutes to the Senator from Minnesota [Mr. DURENBERGER].

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for 10 minutes.

Mr. DURENBERGER. Mr. President, I thank the Chair.

I am personally pleased that there has been a period of time between the passage of NAFTA on the House side and on the Senate side. I think that it has given us all some time to reflect on some of the tensions that have been felt both in this body and in the other body. It has also provided an opportunity to examine our relationships with the White House over the last several months, particularly as we have headed up to this very critical debate. The wide margin of the vote on the House side, and the very obvious margin by which NAFTA will pass when we eventually vote on it on this side, has demonstrated that there is a spirit in this body, just reflected most obviously by my colleague from Massachusetts, of not only bipartisanship and cooperation, but more importantly, I think, of a powerful vision for the future of our country that exists in Congress to a degree that we did not previously realize.

In my view, Mr. President, by the passage of NAFTA we will have reaffirmed to everyone in this country that we are a world leader; that we do have a vision for the future; that we are not insensitive to the problems that we face as a people; that we are not insensitive to the impact of the restructuring of our economy and the economies of other countries of the world; that NAFTA, free trade, hemispheric trade, changes in the General Agreement on Tariffs and Trade, which we hope will come in the next several weeks, are all very critical to the restructuring process and to the redevelopment of economies in all of the world.

I think it is critically important to this President, to this Senate, and to this Congress that we endorse in this body, by as large a margin as possible, the work of several Presidents, the work of several Congresses, and the work of the leaders of many parts of this hemisphere.

The President's hand has been strengthened substantially, as we will see as he meets with the leaders of the APEC counties in Seattle over the next several days. Without this mandate, our country would not have the tools that it needs to tackle trade problems that we have with our Asian trade partners—the high trade deficits, and the continuing bias in the trade barriers that we face selling in Asian markets.

Without this vote, the Uruguay round of GATT would be dead. Today, as you saw in the papers already this morning, there is not only hope but there is strength.

Mr. President, I thank my colleague from Massachusetts for the comments that he made relative to the comments made earlier by my junior colleague from Minnesota. We both speak for the same constituencies and we both speak to the same concerns. He expressed very well his concerns for workers, farmers, and others who work for a living in our State. But I think my colleague from Massachusetts expressed it perhaps better than I when he said that there are different courses to take to accomplish the same end. NAFTA is an important course to take to strengthen the value of work, workers, and families in the State of Minnesota.

Two years ago, my colleague from Montana, Senator BAUCUS, who has been managing this bill on the Democratic side, and Senator Lloyd Bentsen, now Secretary of the Treasury and then chairman of the Finance Committee, and I took a 2-week trip throughout this hemisphere. I think it was in August 2 years ago. We visited in Mexico, we visited in Equador, in Peru, Chile, Argentina, Brazil, and Venezuela. We were following a similar visit by then Special Trade Representative, Ambassador Carla Hills and we were preceding a trip by the Vice President of the United States, Dan Quayle, both of whom are Republicans.

But I was struck in our trip by the totally bipartisan nature of the American representation in the hemisphere. I was also struck by the way in which leaders, economic, political, and social, in all of the countries of the hemisphere reacted to the bipartisan nature of this emerging American trade policy.

Having served for 15 years now in the Senate Finance Committee, where we wrestle with trade policy, I have lived through the period of time in which Presidents said trade policy was their own, to a period of cooperation, particularly with the Finance Committee and now with the Senate as a whole, the Ways and Means Committee and the Congress as a whole. And I think trade policy in America, while it may be in this case somewhat argumentative, is a whale of a lot better, and America is a lot better, because of the spirit of cooperation that exists between the White House and the Congress.

It was a challenge for a Democratic candidate for President to support NAFTA. It was an even bigger challenge when he was elected as a Democratic President of the United States for him to take on the challenge of NAFTA, particularly in the context in which its opponents have spoken.

So I congratulate President Clinton, I congratulate the administration, I congratulate my Democratic friends on the Senate side in particular, and the leadership on the Democratic side for not only embracing the notion of NAFTA but for providing leadership in this country, in this hemisphere, and around the world for taking down trade barriers which discriminate against Montanans, Minnesotans, and everybody else in this country.

The point of my remarks is to try to demonstrate something that was not very well demonstrated in the House of Representatives, where a lot of the Democratic leadership was opposing their own President. In this body, it is very different. I will not try to rationalize why, but I think it is important to the American people to understand that international trade, hemispheric trade, neighborly relations is not a political issue, and that it is leadership on the part of the Democrats as well as Republicans in this body that have made a very substantial difference and will continue to make that difference that will move our country forward.

I come from a State which would not exist without international trade. We

have offered up practically all of our iron ore to win two world wars, and a variety of other ores for the steel producing in other States, such as the State of Michigan. Minnesotans work in a resource to provide freedom around the world.

Minnesota agriculture is totally dependent on export markets. You can tell from day to day, week to week, month to month, disaster to disaster, how dependent agriculture in this country, particularly in my State, is on opening up export markets. When we traveled in the hemisphere I met people from 3M, Honeywell, General Mills, and a variety of Minnesota companies, small and large. I used to work for H.B. Fuller in Central America. Various South American countries, as well as the Caribbean nations are all over the place selling Minnesota technology, selling Minnesota products, selling relationships, if you will, that build Caribbean countries, Central American countries, South American countries, with Minnesota know-how, Minnesota products, Minnesota invention, Minnesota talents.

So it has been a long, long time that Minnesotans have been involved in small, medium, and large companies around the world and in this hemisphere.

Our State of Minnesota is very, very dependent, as are its workers and its agriculture producers, on bringing down trade barriers around the world.

A NAFTA defeat would be a serious blow to people in Minnesota, many of whom are just beginning to concentrate on Mexican and Latin American markets. As European and Far Eastern economies stagnate, as these countries raise barriers against United States products, Minnesota needs to look toward more promising markets. The extension of NAFTA to Caribbean countries, to Central American and South American countries, is going to help us in Minnesota overcome the problem of the restructuring of our economy and that of the rest of the world.

NAFTA will create the world's largest open market. It will have a population of 370 million; it will have a GDP of $7 trillion. It is an unparalleled opportunity for Americans, for the United States as a whole, and for Minnesota in particular.

Since Mexico started to remove its trade barriers, Minnesota exports to Mexico have grown by 191 percent. In 1992 alone, last year, we had $261,420,000 worth of exports to Mexico. Sales of Minnesota products to Mexico will dwarf this figure once we pass NAFTA, remove the remaining trade barriers, and begin to expand trade around the world.

We have already experienced great growth in exports as a result of the United States-Canada Free-Trade Agreement. Minnesota exports to Canada have increased 65 percent over the last 4 years as a result of the free trade agreement. In 1992 alone, Minnesota's exports to Canada totaled $1.8 billion.

Minnesota will not be alone in prospering from NAFTA. In 1987, the United States had a $5.7 billion trade deficit with Mexico. In 1992, just 5 years later, we had a surplus trade balance with Mexico of $5.6 billion.

In 1990, United States trade with Mexico totaled $59 billion—putting Mexico behind only Canada and Japan in overall trade with our country.

It is time for the United States to expand its freedom of trade with a trading partner that has a proven record of buying our products, and especially a trading partner that has striven to open its market to even more U.S. goods.

And Mexico is a proven trading partner. Mexico bought $40.6 billion worth of United States goods in 1992 alone.

The United States currently buys more from countries with which we have enormous trade deficits—countries like those in the Far East. Does it make much more sense to buy more from a country that will in turn provide an expanded market for even more Minnesota goods and services? Mexico is the third largest United States export market, and it is the fastest growing.

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Just as the Canadians are our natural trading partner being our neighbor, so too are the Mexicans. The CFTA was just the beginning of the enormous trade potential in our hemisphere—Minnesota will continue to be an export leader as we expand our exports.

I hear constantly from Minnesotans across the State who urge me to support NAFTA because it will significantly expand their business and agricultural export opportunities.

The elimination of the high Mexican tariffs on agricultural products will open a large and growing market for our farmers. Not one single agriculture interest in the State of Minnesota opposes NAFTA. Not one. Minnesota agriculture depends on exports.

Minnesota Department of Agriculture Commissioner Elton Redalen bears out this analysis. He estimates:

> That "NAFTA could mean up to $2.5 billion in additional agricultural exports to Mexico and because Minnesota is such a strong agricultural State, estimates indicate the NAFTA will increase agricultural revenues to Minnesotans by $80 to $110 million. This is simply too big of an opportunity to pass up.

The opportunities for the U.S. agricultural industry are endless under the NAFTA. Without it, however, we threaten the prosperity of this industry that has been sparked—at least in part—by the preliminary tariff reduction. And we risk closing our farmers out of this profitable market entirely, as Mexico without NAFTA, will seek a free-trade agreement with another country which will be given the preferential tariff reduction, which will price United States agricultural products right out of the market.

Minnesota agriculture depends on access to a world market. The NAFTA is a choice about whether Minnesota farmers will help define the future with a world of new markets, or bind themselves to the past.

Small businesses will be able to compete in a market that is all but impenetrable to them now due to the cost of high tariffs and other unfair trade practices—barriers which NAFTA will eliminate or significantly reduce.

Minnesota's 3M is a world leader in the export of production materials—more than half of 3M's sales came from markets outside of the United States—$1.5 billion in 1992 and 3M will increase its exports of production materials to Mexico once NAFTA is passed. Indeed, they recently added 300 manufacturing jobs in the United States to service the growing demand of the Mexican market and 3M's exports to Mexico have increased almost ninefold since 1986 and they expect them to continue growing.

Honeywell is another Minnesota company that will benefit from breaking down the Mexican trade barriers. Honeywell sources 95 percent of the raw materials it uses in its Mexican operations from the United States—this amounts to about $2.2 billion this year. After decades of flat sales in Mexico, since 1987 Honeywell has experienced an increase of 137 percent in sales there. Minnesota jobs in administration, sales, R&D, and engineering will only increase as a result of expanded exports of Honeywell's products to Mexico.

Over 700 Minnesotans make medical devices at Lake Region Manufacturing Co. of Chaska, MN. G.E. Melton, the company's chief financial officer, states:

> We have no intention of moving jobs out of the U.S. We like it here in Minnesota. There is a work ethic here that can't be matched in Mexico or Canada. But if we can't sell our products, be competitive in those two markets, then someone else, probably from Japan or Asia, will be there to supply the market. Lake Region currently exports 25–30% of our production. If we lose those sales, one hundred more Minnesotans would be unemployed. A vote for NAFTA is a vote for Minnesota.

An improved investment climate in Mexico will not cost United States jobs—it will create new ones. Much of the new investment in Mexico will be not the movement of United States jobs to Mexico, but rather the relocation of United States facilities in the

Far East to Mexico. These relocations from the Far East will serve both Mexican and United States markets, but they will displace imports from the Far East that are shipped from countries possessing significant trade barriers to our products. Minnesota companies will be able to sell more parts, components, and services to these relocated facilities as they seek quality inputs.

While we have made substantial progress reducing trade barriers with Japan, much work remains to be done. Barriers remain against construction services, against auto parts, against telecommunications products and services, to name a few. The biggest problems are structural impediments which include a real cultural bias against purchasing imported products. Is it not better to open our market to two countries which have demonstrated consumer demand for U.S. products?

NAFTA will significantly benefit the United States, throughout our whole economy. The side agreements on environmental and worker rights will give us needed leverage to obtain improvements in Mexico's enforcement of environmental laws. Mexico has the right laws, but neither the funding nor the will to enforce them.

The mere pressure of negotiating NAFTA has resulted in a Mexican commitment to provide further funding for environmental law enforcement—many polluting plants have already been closed, a United States-Mexican Commission committed to cleaning up the border, and a new United States-Mexican Development Bank to provide funding for environmental protection in Mexico. All of these initiatives will help a number of Minnesota companies which specialize in environmental technologies.

Mexico has also committed, through the labor side agreement, to increasing its minimum wage, permitting workers to organize into unions, and pursuing other improvements in worker rights.

I would like to remind my colleagues that none of this would have occurred without NAFTA. NAFTA is going to be a huge plus for human rights in Mexico—because it will raise the standard of living of the Mexican people, and reduce the economic hardship that sends so many Mexicans spilling into the United States in desperate search of a better life.

There has been some relocation of United States jobs to Mexico in the past. Decisions to relocate are based on far more complex considerations than a mere comparison of labor costs. Key factors include worker productivity, infrastructure needs, transportation costs, telecommunications access, proximity to suppliers, local laws and regulations, and stability of the Government. These factors weigh just as heavily as labor costs.

H.B. Fuller Co. in St. Paul has operated in Mexico, Central America, the Caribbean, and South America for nearly three decades. Using partners, local leaders and companies, this company has built local markets, created more jobs in its U.S. operations than in Latin America, and returned investment dollars to Minnesota. In fact, the President of H.B. Fuller, Walter Kissling, is a Costa Rican who rose from a Central American President to International Business to his current position in the United States.

I am proud of American workers. They are the most productive in the world. One study states that Mexican workers are only one-fifth as productive as United States workers. That certainly would be an important consideration for those companies looking at a possible relocation. In fact, we have already seen some United States companies who have invested in Mexico close their Mexican plants and move back to the United States.

The productivity of these plant levels in Mexico was so low that they were losing money. Without NAFTA, more jobs will shift to Mexico.

The threat of sanctions included in the side agreements will enable us to achieve further progress. The threat of withdrawing from the NAFTA, as is our right under the agreement, will pave the way for further progress. Again: What leverage would we have without NAFTA?

With NAFTA, we gain all of the benefits of open preferential access to the Mexican economy, as well as addressing current unfair trade practices. Without NAFTA, we would see diminished United States export opportunities, continuing plant relocations, disregard for the environment, maquiladoras, immigration pressures—and put ourselves at a competitive disadvantage vis-a-vis our Far East competitors, who would exploit investments in Mexico to target the United States market.

America has a national mission to promote global prosperity. Our principles show how we can do it. We must not shrink from our responsibility to lead the whole world into a peaceful, prosperous 21st century economy. For the good of our economy, for the future of our country, and for the future of a world in which too many people are still mired in poverty and yearn for the prosperity that can only be built on a foundation of global economic freedom, we must implement the NAFTA.

Mr. WALLOP. Mr. President, I yield 20 minutes to the Senator from Texas [Mr. GRAMM].

The ACTING PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, very seldom, even in the U.S. Senate, do you have an opportunity to cast a vote that will change the lives of tens of millions of people. The drama occurred on Wednesday in the House of Representatives. We are going through the motions here in the Senate, because we know the outcome of this debate, we know what the vote is going to be, and we know NAFTA is going to win.

But I am grateful that I am here, and that I have the opportunity to cast this vote for NAFTA.

A decade from today we will look back at the vote in the House and in the Senate. As we look back on the debate which has occurred in the country, when we look back on the millions of jobs created in North America by NAFTA, as we look back on the fact that it turned out to be, as I believe it will, the catalyst for a free-trade agreement from the Arctic to the Antarctic, that it turned out to be, as I believe it will, the catalyst for a successful new GATT round for the bringing down of trade barriers, and for the expansion of trade, jobs, growth, and opportunity that come with it, around the world, I think as we look back people a decade from now will have a hard time understanding what was controversial about NAFTA.

I think they will have a hard time understanding why there were objections. Those of us who were privileged to be here will be able to look back and know that there were objections, but those objections were overcome, and that we did not let fear dictate America's policy. We let history, facts, and American confidence dictate that policy. And the world will be greatly different because we did.

I want to say something about the House of Representatives. I think unfortunately that, even in this great monument of American democracy that we all work in, it is easy to get into the frame of mind that this is a political job, that people are motivated by politics. Certainly in this debate around the country on NAFTA, the whole political process has been held up to ridicule.

As a person who was privileged to serve in the House for 6 years, a person who has served now in the Senate for 9 years, I wish to say that I have never been prouder of the House of Representatives than I was on Wednesday. What we saw was American democracy in action. We did see protesters throwing phony $50 bills on the floor of the House of Representatives. We have heard a lot of shouting and criticism from many sources. But when all the dust settled, when the debate occurred, I believe the House of Representatives acted correctly and courageously in approving NAFTA. It was a great moment for the House of Representatives, and I congratulate them.

This is a nonpartisan issue. NAFTA was not on Bill Clinton's agenda. Bill Clinton had a hard time in the campaign deciding whether he was for it or against it. It was not supported by his basic political constituency. But I give the President credit. When he came

into office, when he saw that the future of the country in terms of our foreign relations was tied to NAFTA, he got behind it, and he did what he had to do to win. I congratulate him on that great victory.

I am grateful for the support for NAFTA from Democrats. But, Mr. President, I would not be honest standing here today if I did not say that this is a Republican agenda. Ronald Reagan first came out for NAFTA. I introduced a North American Free-Trade Agreement bill in the Congress in 1986. I am proud of the fact that 75 percent of the Republican Members of the House of Representatives voted for NAFTA, while only 40 percent of the Democrats did. I believe that we are going to come close to 90 percent of our Republican colleagues in the Senate voting for NAFTA.

I am also proud that the Democratic support in the Senate is going to be much higher than it was in the House.

But the debate about trade is a debate about the future. I am not sure that people understand how important world trade is. I have spent much of my career talking about deficits and about Government. But these issues are small potatoes as compared to trade. The expansion of world trade since World War II has literally changed the planet that we live on.

We created at the end of World War II a world trading system that rebuilt Europe, that rebuilt Japan, that created economic miracles in Korea, and in Taiwan, and Hong Kong, places that had never had economic growth on a sustained basis before. This wealth creating machine was so powerful that it changed first the economic balance of power in the world, and then the military balance in the world. It tore down the Berlin Wall, liberated Eastern Europe, transformed the Soviet Union, and changed the very world that we live in. That was all accomplished because of American leadership, under President Truman and President Eisenhower and President KENNEDY and President Reagan, to expand world trade.

I have behind me a map which I find to be interesting. The map has the continents as they look in the atlas, but I have superimposed on the map some circles which represent the ability of the various nations to produce goods and services.

This whole debate is about trying to merge the Mexican market, which is a relatively small economic market, with the huge American market and with a large Canadian market. But I ask my colleagues, in looking at this chart, to realize that it was American policy and leadership that created the European Economic Community, one of the world's greatest free-trade areas. It was our policy and our leadership under Democratic and Republican Presidents that created this economic miracle. It was our policy and our leadership that rebuilt the Japanese economy. And in doing so, we not only made them rich, but we made ourselves rich through that trade, and we won the cold war. It was a little twig off of the American tree that we stuck in the ground in Korea, and it grew into a world economic power—and the same in Taiwan and the same in Hong Kong. This is a process that we built, and today we take a gigantic step forward in seeing it grow, in nurturing it and seeing that the world benefits from it.

There have been a lot of criticisms of NAFTA, and I want to try to respond to them briefly. First of all, I hope in listening to this debate, whether you are listening to Ross Perot or whether you are listening to Ralph Nader or whether you are listening to any of the other critics of NAFTA, those who have and will speak here on the floor of the Senate and those who spoke in the House, I hope that you notice that never, ever once, will the opponents give a single example of one nation in history that has ever lost jobs or seen a decline in wages as a result of entering into a free-trade agreement or a broad trade-expansion agreement. I am not aware that there is a single instance in the history of the world where a country has lost by entering into an agreement to mutually reduce trade barriers in order to create economic growth.

Mr. RIEGLE. Will the Senator yield for a question at this point?

Mr. GRAMM. If I have time when I finish my statement, I will be happy to discuss this with the Senator.

We have people who say Mexico is not ready for this agreement. They say that they want to see changes in Mexico. Let me give you some of the changes that have occurred in Mexico:

Since 1987, Mexico has privatized 900 state enterprises. They have denationalized their banking system. They have joined GATT. They have unilaterally cut their trade barriers that apply to American goods by 75 percent. They have opened up their political process. A conservative opposition party has won the governorship in two northern states in Mexico. Currently, opposition parties hold 36 percent of the seats in the lower house of the Mexican Congress. I might point out that the opposition party holds only 40 percent of the seats in the United States House of Representatives. President Salinas has dismissed, indicted, convicted, or sent to jail 600 government officials for corruption. Inflation in Mexico has fallen from 160 percent a year to 10 percent a year. The Mexican peso has become fully convertible. Whereas in 1986, 1.7 million illegal aliens were apprehended in the United States that year, that number is down now to 1.1 million.

My point is, the greatest recent economic and social transformation on the planet has occurred not in Eastern Europe, but south of our border. People talk about Mexican wages falling, and Mexican wages did fall for 15 years. But they fell because of socialism. They fell because of deficits and bad government in Mexico. What happened when those wages fell is that American foreign investment in Mexico fell. Mexican purchases of American goods fell. Mexican capital fled Mexico and came to the United States.

When President Salinas came into office and instituted economic reforms, what happened? Wages started to rise. Since 1986, real wages, measured in American dollars, are up in Mexico by 133 percent. Wages are up in the United States by 19.6 percent. And as wages rose, what happened? American investment in Mexico and world investment in Mexico grew. Mexican importation of American goods grew dramatically. Nobody disputes the fact that the increased purchase of American goods by Mexico since 1987 has created over 250,000 jobs in American export industries.

We have heard that when a low-wage country enters into a trade agreement with a high-wage country, wages fall in the high-wage country and jobs leave. We are all familiar with Ross Perot saying that you cannot compete against people who make less money than you do. Is that not a peculiar argument for Ross Perot to make? I have never met anybody who makes more money than Ross Perot. How does Ross Perot compete? Why do the rest of us not put him out of business, given that we are willing to work for less? The problem is that while he preaches flat-Earth economics, he does not practice it. He is good at what he does and, as a result, he makes a lot of money. We are good at what we do as a country.

I want to give you an example that I think is a good analogy to the North American Free-Trade Agreement. Portugal was a relatively poor country before it came into the European Economic Community. Its wages were about one-sixth German wages. Wages in Portugal, unlike wages in Mexico, had fallen for a decade prior to entering into the European Economic Community. According to the logic of the critics of NAFTA, you would think that the jobs in Germany, which were paying wages six times as high as employment in Portugal, would have all run off to Portugal. You would think there would not be a job left in Germany. What happened when Portugal came into the European Economic Community in 1986? What happened was that wages grew in Portugal by 220 percent between 1985 and today. They benefited. But what happened in Germany? Wages grew by 170 percent. Employment benefited in both countries.

There is no evidence anywhere that I am aware of, nor has anyone in this debate presented any evidence, that any nation has ever entered into a free-

trade agreement and lost jobs or seen its wages go down. In fact, the European Community is a perfect counter example to that.

Let me move toward my conclusion, Mr. President, by saying this: The issue here is what kind of vision do we have for America's future? It seems to me that on NAFTA we are debating two competing visions.

One vision is a vision of defeatism. It is a vision that says we cannot compete. Nobody comes out and says it, but you know it is what they mean. They say: We have to build a wall around America to keep out this foreign competition because it is unfair. The Japanese are too protectionist, and they have too high a level of technology. The Mexicans may be willing to have free trade, but their wages are too low. There is always a reason we cannot trade with people.

These are the people who just cuss and raise a ruckus when some Japanese politicians say that American workers are lazy and dumb. But it is obvious when you listen to what they say that they believe it nevertheless, that they believe we cannot compete and that we have to build a wall around America to protect ourselves.

Mr. President, I do not believe that the Japanese politicians who have said those bad things are right. I think they are wrong. I think we can compete, and I am willing to take on the world.

Without question, we could compete more effectively if we did a better job right here in the U.S. Senate, if we did not raise taxes all the time and squander the labors of the people under the pretense of caring for them, to paraphrase Thomas Jefferson.

But the bottom line is this: The vision of the opponents is a vision of protectionism, to protect us from competition.

Now that Dallas is back as the Super Bowl champions—hopefully we will be back again, hopefully we will win the Super Bowl for many years to come—people forget that it has only been a few years since Dallas was 1 and 15.

The logic of the critics of NAFTA would have been to say, well, Dallas cannot compete, especially in a conference that has the best teams in the league; they ought to call off competition for 3 or 4 years so they can become competitive.

You do not become competitive by not competing. By playing in the best division in the league, Dallas became Super Bowl champions again. I believe that America can remain Super Bowl champions by competing.

I want to conclude by reading a passage from a great American, a Democratic Member of Congress from New York at the turn of the century, a person whom we have all forgotten. I want to read his quote because it defines the other vision, the vision of America competing, of reaping the benefits from trade, the vision that recognizes that the world is changing, that the world is competitive, and that we must change with it, that we must compete or we are going to be left behind, as powerful as we are and as much as we have dominated the world in the post-war period. We are either going to lead or we are going to follow. I want to lead, which is why I am for NAFTA. Bourke Cockran was a Democratic Congressman, perhaps the Nation's most eloquent spokesman for free trade. His eloquence had a profound impact on Winston Churchill. While Winston Churchill changed political parties, there is one issue he never deviated from, and that was support for free trade. This is from a speech that Cockran gave in London on July 15, 1903, praising Britain for its system of free trade. I want to conclude by reading two paragraphs from this speech.

> Your Free Trade system makes the whole industrial life of the World one vast scheme of cooperation for your benefit. At this moment, in every quarter of the globe, forces are at work to supply your necessities and improve your condition. As I speak, men are tending flocks on Australian fields, and shearing wool which will clothe you during the coming winter. On Western fields men are reaping grain to supply your daily bread. In mines, deep underground, men are swinging pick-axes and shovels to wrest from the bosom of the earth the ores essential to the efficiency of your industry. Under tropical skies hands are gathering from bending boughs luscious fruit which, in a few days, will be offered for your consumption on the streets of London. Over shining rails locomotives are drawing trains; on heaving surges sailors are piloting barks; through the arid desert Arabs are guiding caravans all charged with the fruits of industry to be placed here freely at your feet.
>
> You alone, among all the inhabitants of the earth, encourage this gracious tribute and enjoy its full benefit, for here alone it is received freely, without imposition, restriction, or tax, while everywhere else barriers are raised against it by stupidity and folly.

Great Britain rejected this system, and they lost their position of world leadership. Today, we embrace it and we commit to the principle that America will not lose its position of world leadership.

I am proud that we are going to adopt NAFTA. It is going to change the world, and we are going to be a part of it.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, a point of personal privilege.

May I point out to my friend from Texas, Mr. Bourke Cockran, was known as the golden voice of Tammany Hall.

Mr. GRAMM. And he was that.

The ACTING PRESIDENT pro tempore. The Senator from Virginia [Mr. ROBB] is recognized.

Mr. BAUCUS. Mr. President, I yield 15 minutes to the Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, freedom is a gamble. With any right or any privilege comes the possibility that one will lose. There is safety behind thick walls. There is little risk. But the walls, that bring safety also confine, and it is difficult to grow, beyond them.

Like any freedom, free trade is a gamble. And I do not blame anyone either in this Chamber or outside for being uncertain about the prospect of open competition. But I believe that removing barriers frees us.

Tearing down the walls, which separate our businesses from the growing markets next door, can allow an energetic and dynamic America to break free from the bonds of stagnation.

I know, Mr. President, that many Americans feel themselves to be at risk. They think of Canada as a vast storehouse of natural resources, and wonder why anyone will buy from our mines, our forests, our trawlers. And they think of Mexico as a land awash in cheap labor, and wonder whey anyone will buy from our mills, our foundries, our factories.

The answer is that our factories, and our mines, and our people make the goods that the world wants.

We make them more productively, we make them more efficiently, and we make them better than anyone else anywhere.

Give us fair and equal rules, and I will put America one-on-one against anybody. That's what NAFTA does—it levels the playing field. It allows America to do the things we do best—to innovate, to market, and to produce quality efficiently.

I know many Americans fear that businesses will line up to rush south the moment we pass this agreement. But if those businesses wanted to go, they would have gone already—or they will go in the future, with or without NAFTA. NAFTA does not make it easier to move production to Mexico. It just makes it easier to sell our products there.

Those businesses stayed in America, because they knew that American workers outproduce their counterparts across either border.

Our skills are greater. Our plants, and methods of harvesting natural resources, are more sophisticated. And we have achieved all this while maintaining the world's standard for worker safety, and environmental responsibility. And we have achieved all this while tariffs restricted our ability to export particularly to the south.

Mexicans want U.S. goods, the average Mexican already spends more on products made in the United States than the average Japanese citizen.

This despite tariff barriers, that in many cases, make our products more expensive than the equivalent Mexican product. The demand is there.

When NAFTA permits us to become fully price-competitive by eliminating the tariffs and other barriers, at the border, sales will increase even more. And sales, mean jobs here at home.

You can see the power of the Mexican market in Virginia's experience.

George Grayson, professor of Government at William and Mary, and a recognized scholar on Mexico, notes that over the last 4 years, while Virginia's exports to the rest of the world grew by a healthy 63 percent, exports to Mexico shot up 286 percent.

I met recently with the heads of major manufacturing companies from Virginia, and they were very clear, on two points: First, they and their employees, are exporting to the Mexican market today. It is a strong and growing market.

And second, eliminating Mexico's barriers to trade, will let them dramatically increase that trade, and with that their employment.

America's exports to Mexico, have been held in check by restrictive tariffs, which weighed most heavily on those things America does best.

Semiconductors and electronics, automobiles and textiles.

With NAFTA, these barriers will fall. With NAFTA, the power of the American worker can finally be brought to bear unfettered by foreign interference.

For proof just look north. For the last 5 years, trade between the United States and Canada has been mostly free and getting freer. The result has been good for both countries.

Canada has become our largest trading partner, more even than Japan. Businesses that market in Canada have seen sales and employment improve. And Canadian businesses that export to the United States have largely seen the same.

That experience proves that free trade is not a question of us versus them. It is not kill or be killed. It is us and them working together. Canada and Mexico buy our products. We buy theirs and together we prosper.

Those who know me and who have followed my career know that I have always supported free trade abroad as a means of providing jobs to people here at home. Given that long-standing support, this vote should have been easy. But it is not easy. It is not easy because of the anguished voices I have heard from Virginians who are afraid that NAFTA will cause them to lose their jobs.

I read the anxiety in the letters I receive from Virginians; I hear the anxiety in the voices of people I talk to when I travel throughout the Commonwealth and I know of the anxiety in groups that have long been my friends.

So I have gone back and studied the agreement and I have talked to economists and I have read editorials and articles about the likely effects of NAFTA. I have searched for the cause of the harm which many believe NAFTA will wreak.

The more I have searched the more I have come to understand that it is our past trade policies which have caused this anxiety; that NAFTA is not the disease, it is part of the cure.

Mexico's tariffs are higher than ours—on average 2½ times higher and their economy is growing.

We should take advantage of the opportunity for more domestic job growth which NAFTA presents.

This is all to say that I share the sentiment of so many hard working Virginians. We need to create more jobs in this country. And we've done better this past year than in the previous 4 years.

We need to create better jobs in this country. We need to ensure that our children have more opportunity.

I share the goals of those Virginians who wrote against NAFTA. I just do not share the conclusion that NAFTA keeps us from reaching those goals.

For those in my political party who face little or no opposition for renomination, voting in favor of NAFTA does not pose much of a political problem. On the other hand, there is no question in my mind that opposing NAFTA would have enormous political benefit for those of us who may face a serious primary challenge, especially since one vote either way at this point probably will not make a difference.

But I believe how we vote on NAFTA does matter because it is central to America's strategy to compete and win in today's global economy.

I have read countless articles opposing NAFTA and I have listened to many of our congressional colleagues argue against it in both the House and Senate.

There is no question that most of the emotion is on the other side of the argument but in spite of some very passionate arguments in opposition—many by key friends and allies on most other issues—I am firmly convinced that the fears most often expressed are much more likely to come to pass if NAFTA is not ratified than if it is.

I also believe that to oppose NAFTA would be wrong. I have considered this agreement at great length and waited to examine all possible arguments. And the more I looked at it, Mr. President, the more clearly I came to see that the arguments against NAFTA have one common theme.

That theme is fear. Fear that America cannot compete; fear that the future will be worse than the present; fear that by treating other countries as equals they will dupe us, and abuse us, and defeat us.

The arguments, however deeply felt, simply do not conform to business realities; they distort the nature of Mexico's economy and people, and they overlook the experiences of free-trade arrangements around the world.

I do not take the concerns of those who oppose NAFTA lightly.

I told President Bush, and later President Clinton, that to win the hearts and minds of America's work force, we have to address the concerns and fears of workers who are afraid that they will lose their job because of NAFTA. And that fear is not lessened by an individual's knowledge that two currently unemployed cousins might find work as a result of NAFTA. The two jobs gained will not make up for the one they are afraid they might lose. That fear may not be justified, but it is real.

I have felt a great uneasiness, an insecurity among many Virginians and among many Americans for some time since long before NAFTA.

That is why, when I read this agreement closely, I looked specifically for anything in NAFTA which would justify or exacerbate that fear. And I found that to the contrary, this agreement is much more likely to create and sustain jobs in both the short run and the long run.

Will there be difficulties? Of course there will. Realistically, in the short run, some industries may not do as well as others. But assistance for those industries and their workers are built into the agreement and into the side agreements. And the President has pledged to follow through.

The focus of our national effort has to be on those who may lose their jobs. Not just those who may be affected by free trade, but all Americans suffering from economic dislocations.

It is in our national interest to help those in low-wage, low-skill jobs, move up, regardless of our trade arrangements.

I strongly believe that the current jobs which may be affected, are not nearly so numerous as the jobs we will create, as the lives we will improve, as the opportunities we will provide if we ratify this agreement.

And if we believe, in our minds and in our hearts that ratifying NAFTA will be better for America than letting it fail, we have an obligation to vote accordingly, no matter how much it may complicate our lives politically.

I believe that this is a defining moment for each of us and for America. Not because of the direct consequences regarding jobs created or lost because with Mexico's economy currently only 5 percent of the United States. I believe that the impact either way will be more modest than most of the claims made by either side.

Far more important is the impact this vote will have on our nearest southern neighbor on our hemispheric relations and on our international trade relationships, and what it will say about our leadership and direction in the post-cold-war era.

If NAFTA is ratified, the President and Congress will have an obligation to work even harder to address the legitimate insecurities that underlie much of the opposition to NAFTA.

For example, we will have to focus to a greater degree on equal and fair

treatment of workers on both sides of the border. The economic benefits of NAFTA can only be fully realized when Mexican workers are allowed to share fully in their economic expansion, and by doing so become greater consumers of United States goods.

And I should point out to those concerned about particular facets of NAFTA, that this is a living agreement. Like the United States/Canada Free-Trade Agreement, standing committees will adjust the implementation of the deal as it goes forward to make up for abuses, injustices, or situations that may not have been foreseen.

And it is not merely an economic agreement.

NAFTA requires that our trade partners improve: their environmental conditions and their labor conditions, so that we are all able to compete on an equal basis. And that way, we have a better, cleaner continent on which to live along with more and better jobs.

Mr. President, Mexico will develop with us or without us. I cannot believe it is better to let Mexico go its own way perhaps with the help, of other foreign powers, than to join with Mexico, and Canada, to raise all of our economies.

That question has been answered again and again in my State of Virginia.

Let me quote from a letter I received, from the president of Comdial, an 800-worker electronics firm in Charlottesville.

He says:

> Five years ago, we decided to do assembly work, in Mexico, on our line of standard telephone instruments.
>
> I grant that we were attracted by the idea of saving labor costs.
>
> However, we soon learned that our savings in labor costs were more than offset by the higher costs of: transportation, rework due to quality problems and generally poor productivity compared with our U.S. labor force.
>
> After two years, we brought production back to the U.S.

As you can see, Mr. President, the Mexican worker is not 10 feet tall.

The letter continues:

> More recently, we have made efforts to export into Mexico.
>
> We have achieved some sales but the results have been disappointing due largely to high tariffs and difficult technical approval procedures.
>
> Mr. President, NAFTA would eliminate those barriers, tariff, and non-tariff alike.

Quoting again:

> With the risks of poorer productivity, currency exposure, increased shipping and administrative costs, and other factors, it would be foolhardy to relocate to Mexico or anywhere else if the only benefit were lower wages.

Mr. President, that's real-life experience worth listening to.

More proof that we can, compete and win comes from Lynchburg, VA.

A company there, Limitorque, set up a Mexican factory, to make valve actuators, for Pemex, the State-owned, Mexican petroleum company.

But Pemex found the performance of the same valve actuators, made in Virginia, so superior, and the price so competitive, that they decided to buy from the Virginia plant, instead, and now the Mexican Government oil company, buys most of their actuators from that Virginia factory.

Moreover, a 40-percent defect rate, made real production costs so much higher at the Mexican factory that Limitorque closed it and moved production back to Virginia.

Or listen to Virginia's farmers who tell me that freer exports to Mexico mean 50,000 new jobs in American agriculture.

They are proud that from 1990 to 1992 the export of food products from Virginia to Mexico increased 1,300 percent.

And it will increase even more without trade barriers.

Or if you prefer, listen to the voice of history.

Around the world, free trade is becoming the norm. Europe has eliminated its internal barriers. Canada and the United States have done so. And the Pacific rim nations are meeting right now in Seattle to consider the same steps.

On occasions, in the past, America has tried to isolate itself from the world. We have stood by, and let others lead. Yet, in the long run that has cost us not only in money, but in lives. The lesson of protectionism in the twenties that brought us into the Depression, and isolationism, in the thirties, which eventually forced us into global war is that America stands by only at its own risk.

And I submit, that standing by is a risk with too little possibility of reward.

I commend to my colleagues the words of Dean Acheson, who said:

> The counsels of "discretion" and "cowardice" are appealing.
>
> Such a course might get one by the issue of the moment, but it has bitter and evil "consequences."
>
> In the long days and years, which stretch beyond that moment of decision, one must live with one's self; and the consequences of living with a decision which one knows has sprung from timidity and cowardice, go to the roots of one's life.
>
> It is not merely a question of "peace of mind," although that is vital; it is matter of "integrity of character."

Mr. President, I believe that an America free to do business is an America that will win.

Because I know and have faith in the American worker and the American character, I will vote to tear down the barriers that surround us so that our Nation may grow anew.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP. Mr. President, I yield 10 minutes to the Senator from Colorado, [Mr. BROWN].

The ACTING PRESIDENT pro tempore. Senator from Colorado is recognized for 10 minutes.

Mr. BROWN. Mr. President, I rise in strong support of the NAFTA. I think scholars in years hence will puzzle as to why this was even debated or a point of controversy in the U.S. Senate. The facts are fairly undisputed. The reality is, what NAFTA does is to bring the trade barriers that Mexico imposes on American products down to the same level that we impose on their products. The reality that seems to be undisputed in this Chamber is that Mexico already has relatively free access to the United States market now. Over half the goods that they ship us come in just duty free and the balance of the goods, less than half of them, come in at an extremely low tariff rate. How can this be bad? Mexico already has relatively free access to us.

Also undisputed is the fact that the United States faces huge barriers in a variety of important products in shipping into Mexico. If someone really is opposed to Mexico reducing its barriers on American products, let them stand up and say so, but I have not heard that. The reality is, this is a one-sided agreement. We get much more from the agreement than we give up. Mexico has huge barriers, and we have very little. The agreement is enormously tilted toward America's advantage.

Some have raised the wage differential as reason to be concerned about this particular agreement. The wage differential exists today. It existed before the agreement, and it may well exist after the agreement. But virtually every economist who has spoken out on this indicates they expect the wage differential between Mexico and the United States to shrink with the agreement, not increase. Clearly, the wage differential that is talked about is not a reason to reject NAFTA; if anything, it is a reason to adopt it.

The same analysis applies to many of the things that have been brought up.

I thought it might be worthwhile to share a few thoughts as to what the real problems with this agreement is and how we need to be prepared to address them. The real objection to NAFTA when you cut through all the discussion is that our negotiators did too good a job, not too bad a job. The reality is, they won concessions in a broad range of areas including eliminating Mexico's restrictions on investment. That is the real rub. That is why people are so concerned about this agreement. It is because Mexico makes a number of concessions. They not only open their borders to our products, which is an enormous advantage to America, but they also make concessions with regard to the restrictions they have. The agreement helps make it clear that Americans are allowed to invest in Mexico. The restrictions on U.S. ownership are, if not done away with, at least dramatically reduced.

The fact is, you have seen a dramatic change in the ability to repatriate currency. The bottom line is that the objection to NAFTA is that we have gotten too much from the agreement and not too little.

I think we may be missing the real point in this debate. Is it likely there will be more investment and ownership by Americans in Mexico with this agreement? Yes, I think there will be. That is what I suspect many of the opponents of this agreement are concerned about. I think we may be missing, though, the real comparison of how this brings competitive edge and competition to the United States. The real competition will not just be in wages or productivity. The real competition will be in a variety of other things where we are noncompetitive as a country.

We have the lowest savings rate of any major industrialized country on the face of the Earth. If we in Congress think we can continue to impose penalties on savings while our competitors, who have access to our markets, do not, we are kidding ourselves. The competition is going to be in capital gains treatment. Because if we have dramatically higher rates in taxing capital gains than our competitors, we will lose investment and we will lose jobs.

The competition comes in regulations. This year, we have the likelihood that there will be 80,000 pages of new regulations in the Federal Register. That is an area where we will suffer by competition. The fact is we do more central planning with Government regulation than any country on the face of the Earth does today.

Let me repeat what this debate may not be focused on. We do more micromanagement and central planning from the Federal Government today, with 80,000 pages of new regulations in the Federal Register, than any country on the face of the Earth.

Some will say we do not control as much and we are simply more efficient at it. Maybe that is true. But the reality is, if we want to compete with Mexico or any other country, we have to take a new look at the way we micromanage this economy.

We are going to have competition in taxes. The unparalleled string of huge tax increases imposed on the American people will make us less competitive. That has to be addressed.

NAFTA does pose problems for this country and it does pose potential problems with regard to competition. But those problems are not just over wage rates. Those problems are over the things that this Chamber controls: capital gains treatment, Government regulations, taxes, a hostile attitude toward working men and women and their ability to perform their functions.

NAFTA is a good agreement. It opens up a new market to us. It provides us equal access. But no one should vote for this treaty without realizing that it will intensify worldwide competition and it will intensify competition in areas Americans do not excel at. When the playing field becomes the question of overregulation and taxes and regulatory burden, this country has to change.

Can we change? I believe we can. But no one should believe that NAFTA is a panacea or will solve our problems. What it will do is place even greater competitive pressure on the U.S. economy. I believe we have to compete. I believe we have to move forward. But as people listen to this debate today, they should understand that the questions are not about just wage rates. The questions are about concessions by the Mexicans which reflect the decision to move into a competitive world economy. I only hope that we have the resolve, not just to vote for NAFTA, but that we have the resolve to compete on the basis that the world's economy will reward winners in the years ahead.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I yield myself 3 minutes, followed by 10 minutes for the learned Senator from Ohio [Mr. METZENBAUM].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise to a painful point of personal privilege, nay institutional privilege, for nothing less than the reputation of the U.S. Congress has been put in jeopardy this very morning in the pages of the New York Times by the incendiary television performer, Mr. Russell Baker.

Mr. Baker, in a column on the op-ed page, discusses the grave matter before the Senate today, the issue of the North American Free Trade Agreement, in terms that, at very least, are derisory, and which could in certain circumstances be deemed inflammatory by a court of law, not excluding the possibility of this body sitting in judgment whilst the House of Representatives presented the case.

It is Mr. Baker's singular assertion that votes—votes, Mr. President—were bought for this bill by the cucumber lobby. Not to mention the beef lobby and the wheat lobby. The whole world knows that these practices ceased and desisted from the moment the Democratic Party and Franklin D. Roosevelt liberated Congress from the fell grip of Smoot and Hawley.

More alarming still, possibly seditious, Mr. Baker alleges that one Texas vote may cost the Treasury $1.4 billion for construction of airplanes the Pentagon does not want.

Mr. President, this sort of innuendo not only offends against public taste but threatens a central institution of the Republic, which is to say civilian control of the armed services. It is well the United States is not engaged in more than the statutory limit of nine armed combat situations at this time, lest Mr. Baker find himself not only before the bar of this body, in a figurative sense—for we have long abolished such barbarisms of an older monarchical autocracy—but more fearsome, the bar of public opinion.

If Mr. Baker had shown any of the stick-to-it-iveness and industry associated with old fashioned American journalism, he would have discovered in section 515 of the bill a provision for the Center for the Study of Western Hemispheric Trade. This is a large new multimedia, interdisciplinary, multilingual campus facility which, by statute, will be constructed in the State of Texas after consultation with the Commissioner of Customs. It will implement academic exchange programs and other cooperative research and instructional agreements with the complementary North-South Center at the University of Miami at Coral Gables.

It will also engage in intramural sports, including an annual exhibition football game with the Buffalo Bills. That took care of Texas—not tinkering with the national defense.

It should be clear to the Senate, Mr. President, that something near sedition may be afoot. There have yet been no proven sightings of Cuban agents in the lobbies, but we must never forget that no one would be more delighted with the ruin of this great enterprise than Fidel Castro, and be ever alert to subversive influences wheresoever they might appear. It is a painful duty to which we as Senators are sworn, and to which banner we proudly hail.

Thank you, Mr. President, and I ask unanimous consent that the appropriate documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 20, 1993]

EASY ON THAT CUCUMBER

(By Russell Baker)

When history honors the role played by victuals in the annals of the Great Republic, let it be recorded that it was the fruit-and-veggie bloc that saved the White House's bacon when the North American Free Trade Agreement was in jeopardy at the Capitol.

To say that the President bought a victory with oranges, tomatoes and cucumbers would be unkind to the Congressfolk of the garden and sunshine states. Mr. Clinton had predicted that many patriotic Congresspersons would barely risk their political careers "to do what they think is right."

Justice compels us to concded that risking their political careers may have been what the fruit-and-veggie bloc were doing when they told the White House it could stick free trade in its ear unless tomatoes, cucumbers, and Florida orange juice were protected from foreign competition.

The prima-facie evidence, however, suggests they were less interested in doing what was right for the republic than in doing what

was right for businesses that flourish in their district, or to put it in plainer English, for themselves.

Having been told for years by demographers and political analysts that the American farmer is as gone as the horse collar, I was astonished to learn from this event that it ain't so. The tomato farmer and the cucumber grower not only live, they also have power to make Congressmen force the President to excuse them from enjoying the blessings of free trade.

A cucumber lobby: Who would have guessed it? Could it have been founded by Representative J.J. (Jake) Pickle of Texas?

Not to be outdone in the grocery political competition, beef and wheat were also granted boons by the President. Representatives from wheat producing areas and cattle zones had seemed strangely indifferent to statements that North American free trade would produce economic marvels.

Could it have been a rare case of Congressional unselfishness? Perhaps beef and wheat people were willing to sacrifice the benefits free trade would bring their constituents rather than vote against their colleagues in organized labor, who feared free trade would finish them off.

Not so, as it turned out. Beef and wheat were merely waiting for Mr. Clinton to assure them that if they would just vote for free trade he would help them avoid having to compete with other nations' freely traded wheat and beef.

And so the grocery coalition—fruit and veg, beef and spaghetti—was instrumental in giving Mr. Clinton his free-trade agreement. There is nothing remarkable about such bartering and buying of votes when a President wants something as desperately as Mr. Clinton wants the fee-trade agreement.

In close-run fights the politician who holds out until the last moment often may walk away with so much Federal gravy that he will need a tank train to get it all out of Washington. The present fight, for instance, has been garnished with news that one Texas vote may cost the Treasury $1.4 billion for construction of airplanes the Pentagon doesn't want.

The public usually pays the final bill for these exercises, but an amazing exception occurred during the fight for the first Reagan tax cut in 1981. Then Democrats decided not to fight the big Reagan cuts; instead, they started competing with Republicans to make them even bigger.

Events rarely turn out so happily for the public, though Mr. Clinton keeps assuring us that we will all bless the day free trade comes to North America. Organized labor's disagreement is based on its rust-belt experience with industries that go abroad for cheap labor, leaving ruin and unemployment behind.

Mr. Clinton's prediction that North American free trade will invigorate the economy is the only reason he has given labor to love him. Concessions went to the grocery bloc, but not to the rust belt. Ironically, those concessions may result in raising grocery prices slightly for struggling rust belt workers before the great economic revival begins.

Ater showing he can get along without Jesse Jackson, the President has now shown he can get along without organized labor. With this rough treatment of old populist elements of the Democratic Party, those who think something new is in the wind now hail him as "a new Democrat." What is that? Seems a little like an old Republican.

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**SEC. 155. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

(a) AMENDMENT TO THE CBI.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

**"SEC. 219 CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with appropriate officials in the State of Texas, is authorized and directed to make grants to an institution (or a consortium of such institutions) to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemisphere Trade (hereafter in this section referred to as the 'Center'). The commissioner of Customs shall make the first grant not later than December 1, 1994, and the Center shall be established not alter than February 1, 1995.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine—

"(1) the impact of the NAFTA on the economies in, and trade within, the Western Hemisphere,

"(2) the negotiation of any future free trade agreements, including possible accessions to the NAFTA; and

"(3) adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of customs shall consult with appropriate officials of the State of Texas and private sector authorities with respect to selecting, planning, and establishing the Center. In selecting the appropriate institution, the Commissioner of Customs shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere, including the impact of the NAFTA on individual economies and the desirability and feasibility of possible accessions to the NAFTA by such countries.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studied, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(6) Implement academic exchange programs and other cooperative research and instructional agreements with the complementary North/South Center at the University of Miami at Coral Gables.

"(e) DEFINITIONS.—For purposes of this section—

"(1) NAFTA.—The term 'NAFTA' means the North American Free Trade Agreement.

"(2) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere, mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.

"(g) DURATION OF GRANT.—The Commissioner of Customs is directed to make grants to any institution or institutions selected as the Center for fiscal years 1994, 1995, 1996, and 1997.

"(h) REPORT.—The Commissioner of Customs shall, no later than July 1, 1994, and annually thereafter for years for which grants are made, submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The first report shall include—

"(1) a statement identifying the institution or institutions selected as the Center,

"(2) the reasons for selecting the institution or institutions as the Center, and

"(3) the plan of such institution or institutions for operating the Center.

Each subsequent report shall include information with respect to the operations of the Center, the collaboration of the Center with, and dissemination of information to, Government policymakers and the business community with respect to the study of Western Hemispheric trade by the Center, and the plan and efforts of the Center to continue operations after grants under this section have expired.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1994, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of section 219 of the Caribbean Basin Economic Recovery Act (as added by subsection (a)).

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, I recognize that a majority of the Senate is likely to vote for the North American Free-Trade Agreement, and I congratulate the President for his success. But I must tell you that I am deeply saddened by this outcome. In my view, NAFTA will be bad for American workers, bad for Mexican workers, and bad for the environment of both countries. I believe very strongly that we could, and should, have done much better.

Let me make clear from the outset that I support free trade. Free trade is

good for America when it occurs on a level playing field. Free trade with Canada and the Nations of Europe makes sense because those countries have a standard of living, and free, democratic governments, that are similar to ours.

But NAFTA is a far cry from free trade. Yes, the agreement does provide for the elimination of tariffs and trade restrictions between Mexico and the United States. But take a closer look at NAFTA, and you see American companies shipping jobs south of the border to reap billions in profits by exploiting Mexican workers and degrading the environment. Look closely at Mexico, and you see a one-party dictatorship with a history of corruption and suppression of worker rights. By institutionalizing the relationship between corporate America and Mexico's ruling party, NAFTA guarantees the further exploitation of Mexican workers at the expense of American jobs.

Mr. President, it does not take a rocket scientist to figure out the eliminating tariffs and trade restrictions, and guaranteeing the security of investments in Mexico, will cost hundreds of thousands of Americans their jobs. They are the ones who will pay the price. As this chart shows, U.S. manufacturing workers earn $16.17 an hour. Canadian workers earn $17.02 an hour and Mexican workers earn an average of $2.35 an hour, and in the maquiladora area, only $1.64 an hour. The wage ratio between the United States and Mexico is about 7 to 1.

This huge wage differential is no accident. In fact, the Mexican Government has for years collaborated with business and the government-controlled unions to suppress wages, as part of a scheme to attract foreign investment. The government has also worked to repress workers' rights to organize and bargain collectively to improve their wages and working conditions. And we, the American Government, are about to play into their hands.

Take the case of Agapito Gonzales, for example. Gonzales was the head of an independent industrial workers union in Matamoros, Mexico, where many United States-owned plants are located. In 1992, Gonzales was aggressively seeking to improve wages and working conditions for workers in Matamoros. At a critical stage in the negotiations—listen to this—the Mexican Government threw the 76-year-old Gonzales in jail, on charges that he had failed to pay enough taxes 4 years earlier. He ended up in the hospital, where he remained under house arrest for 7 months. The message to workers was clear: The government would not tolerate their efforts to improve their meager wages, even through the lawful exercise of their rights.

Throwing a labor leader in prison at the time of negotiations for some claim of unpaid taxes 4 years earlier—how would the American people feel if that occurred to one of our American labor leaders? We would not tolerate it, but we are playing right into the hands of the Mexicans and the big businesses of this country who want to move their plants to Mexico at cheap labor rates.

NAFTA will put America's stamp of approval on Mexico's deplorable practices. In recent issues of a number of trade magazines, one of the Mexican states ran an advertisement that says it all. As you can see from this enlarged version, the advertisement shows a picture of an American businessman saying to himself, "I can't find good, loyal workers for a dollar an hour within a thousand miles of here."

And the ad says, "Yes you can, in Yucatan!" Then it goes on to say: Labor costs average under $1 an hour in Yucatan, and U.S. firms would save over $15,000 a year per worker by moving to Yucatan. If we adopt NAFTA, put yourself in the shoes of America's corporate giants—with no trade restrictions, ironclad investment protections, and a government that suppresses wages, where would you build your plant?

Who is kidding whom in this situation? if you were an employer paying $16 an hour and had a chance to manufacture the same kind of product in Mexico for $1.64 or $2 an hour, where do you think you would go? It is absurd to think that this is going to help American workers. That is, in my opinion, an unmitigated lie. It will not help American workers. Maybe some will get extra jobs at low-paying wages, but it will literally pull down the standard of living for people earning decent wages at the present time, whether in labor union shops or nonlabor union shops.

Our experience in recent years confirms that the Fortune 500 will not hesitate to use NAFTA to exploit Mexican labor. GM, for example, is the largest private employer in Mexico today. As GM shuts down United States plants and eliminates thousands of American jobs, it simultaneously adds employees to its 50 Mexican plants. If we adopt NAFTA, scores of U.S. firms will follow suit. Plain and simple, NAFTA puts American jobs on a fast track to Mexico. And anybody who thinks it does not is kidding themselves.

Americans who are lucky enough to keep their jobs will find their wages plummeting as a result of NAFTA. In a recent Roper poll, one-quarter of the executives surveyed admitted that they would use NAFTA as a bargaining chip. So America's hardworking men and women had better get used to hearing this refrain: "If you don't agree to cut your wages, we're going to Mexico."

What sort of protections does NAFTA include for American workers? As currently drafted, NAFTA provides blanket protection for intellectual property, for financial services, and for United States investments in Mexico, so that investors do not lose money. But there is not a word about protecting American workers.

Oh, there is a labor side agreement. It is wonderful. As these charts show, there are 25 steps to go through to get any relief. Here is step 1, step 2, step 3, step 4, step 5, step 6, step 7, step 8, step 9, step 10, step 11, steps 12, 15, 16, 17, 18, 19, 24, 25. Each of those steps takes time. Each of those steps results in more and more delay. And anybody who thinks that the labor side agreement is going to help the American worker ought to stop smoking pot because it is just a dream. It is just unrealistic. The labor people of this country are being left on the back burner. They are not getting any protection. The labor side agreement is not worth a tinker's damn. And hardworking Americans are going to pay the price.

Oh, you can holler about the fact that the labor union bosses were involved in fighting NAFTA in the House. Sure, they were, because their workers are going to pay the price. They are the ones who are going to get squeezed. They are the ones whose wages are going to get cut back. Anybody who thinks it is not going to happen just is not realistic. This labor side agreement does not mean anything, because by the time we get through those 25 steps, the working person is going to be either homeless or unemployed or working at McDonald's for $5 an hour.

I say to you, Mr. President, as far as this agreement is concerned, it is going to pass, it is going to become law. I do not know how soon the real impact will be felt as far as workers in this country are concerned, but I predict without a shadow of a doubt that the workers of this country are the ones who will pay the price for NAFTA. I can understand why the stock market has started to go up. If you can push wages down, then maybe companies can make a little more money. But you get to a point where you have to say, well, who is going to have the money to buy those automobiles, or those refrigerators, or that furniture, because if you start to depress wages, there just is not going to be that much buying power.

Let me walk through some of the steps included in the labor side agreement's absurdly complicated 25-step process.

First, let's assume a complaint is made to the United States Government that Mexico is not enforcing its laws. The United States would then investigate the complaint. If the United States finds that the charge has merit, we would consult with Mexico, first at the staff level, and then at the ministerial level, for as long as the parties choose to do so. If the matter is not resolved, the United States can call for a committee of experts to review the matter, provided it meets three conditions. First, it must involve safety and

health or technical labor standards. Second, it must be trade-related. And third, it must involve mutually-recognized laws.

After the committee reports, the parties again consult over the matter. If two of the three parties agree that there is a persistent pattern of failure to enforce the law, then an arbitral panel may be requested. If the arbitral panel finds a violation, then the panel is to devise an action plan to remedy the violation. Then the parties must agree to the recommended action plan. If the parties cannot agree, the matter goes back to the panel and possible monetary penalties. Finally, if the party in violation fails to comply with the plan or pay the fine, then NAFTA trade sanctions may be imposed.

This 25-step process will take no less than 3 years, and I suspect it may take much longer. While the Governments of the United States and Mexico spend years consulting, thousands of American workers will be out on the street. I am sad to say that the labor side agreement will not help a single American worker save his or her job.

I should also point out that this dispute resolution process does not even apply to workers' rights to organize or bargain collectively to improve their wages and working conditions. Instead, it simply requires Mexico to enforce laws like its paltry 60-cents-an-hour minimum wage. As a result, Mexico will be free to continue to throw union leaders in jail, and companies can continue to blacklist suspected union sympathizers.

Mr. President, let me give the Members of this body a sense of what NAFTA has in store for workers here in Mexico. Last year, I visited Matamoros, in the maquiladora zone, and was shocked at the horrifying squalor in which Mexican workers live. These pictures only begin to tell the story. The first picture shows a plant owned by the Chamberlain Corp., that produces garage door openers. As you can see, the workers live outside the plant in one-room cardboard shacks and patched-together wooden shanties. The next picture shows one of these homes, with no electricity and no running water. The third picture shows the water supply for one of these neighborhoods—a stream which carries toxic runoff from nearby American-owned plants. The children of these workers breathe air thick with pollutants discharged by the factories where their parents work. They bathe in, and drink from, these toxic streams. It is a tragedy—and when workers try to improve these conditions, they are all too often blacklisted or thrown in jail.

If we adopt NAFTA, the United States Government will be putting its stamp of approval on the corporate practice of shipping American jobs to Mexico to exploit workers in Matamoros and other Mexican towns. And the United States will be sending a signal not just to Mexico, but to the whole world, that we will cut trade deals even with countries in which workers are anything but free. And to add insult to injury, NAFTA will cost the American taxpayer up to an estimated $20 billion over the next 10 years in lost tariff revenues and administrative costs.

Mr. President, our choice here is not, as NAFTA's proponents have claimed, between this agreement or nothing. Instead of encouraging United States firms to move their plants to Mexico, we should have used our economic leverage to protect American jobs. Specifically, we should have required Mexico to raise the wages and the living standards of its people before we agree to lower our tariffs. Instead of further entrenching Mexico's one-party regime, we should have demanded true democratic reforms as a precondition to any trade agreement.

Is there any precedent for steps such as these? You bet. These are precisely the kind of steps the developed nations of Europe took before they let their less-developed sisters into the European Community. The E.C. refused entry to Spain, for example, during the dictatorship of Francisco Franco. After his death, Spain was admitted only after an 11-year transition period in which it had to upgrade its environmental and labor standards, hold free elections, and ensure an independent judiciary. Greece and Portugal went through similar 5 and 7 year transitions respectively. We should have insisted that Mexico raise its wages and living conditions, protect workers' rights, and hold free elections, as a condition to any trade deal.

Ultimately, I am very saddened by the likely approval of this NAFTA. I am very sad for the many American workers who will lose their jobs, and for many others who will face pressures to accept lower wages. My constituents know this agreement is a raw deal; they have sent me thousands of letters on this issue, a rate of 10 to 1 against NAFTA.

Mr. President, I accept the fact that the Senate is likely to adopt this agreement, but I am very worried for millions of hardworking American families. I hope I am wrong about the impact of NAFTA. But I am certain that we could, and should, have done much better.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself 5 minutes.

I have spoken about how important international trade is to my State of Oregon, and that one job in six in Oregon is dependent upon trade.

Mr. President, it has not always been that way. Congressman Willis Hawley, of Smoot-Hawley fame, was an Oregon Congressman from Oregon's First District. I assume that when he pressed to pass the now infamous Smoot-Hawley tariff bill, protectionist legislation, he had the best interests of Oregonians in mind. But now things have changed. Oregonians overwhelmingly support NAFTA. They understand the importance of it to my State and to the country.

To demonstrate this, I would like to read just from three letters that I have had from Oregonians that would illustrate this.

First from Steven Barkwell of Milton-Freewater, OR:

> The subject of NAFTA is very important to me. * * *
>
> My wife and I spent three years in Mexico starting and running a greenhouse nursery operation with good success. While there, we saw a great need for consumer products, as well as capital equipment. They have next to nothing.
>
> We also saw a population which genuinely covets products with MADE IN USA stamped across them. From Levis jeans to Kentucky Fried Chicken to the Ford Taurus; Mexicans are proud to own, and willing to pay for, United States products.
>
> Labor is not cheap, nor abused in Mexico. True, our unskilled labor was paid a base of 10 dollars per day. On top of this, we had to pay all family medical and dental insurance, 2 weeks vacation time, 2 weeks Christmas bonus, profit sharing, copious legal holidays, public housing system and their retirement system.

This is the interesting sentence:

> Skilled labor is more costly than in the USA!
>
> Mexicans have money to spend. While the minimum wage is low, we must realize that many Mexicans have no debt, no cars or telephones. Their modest dwellings were passed down from the family or were constructed piecemeal with cash. Land is free to the poorest of Mexicans. They in fact have more discretionary income than most Americans.

The second letter is from Edward Gomes of Aloha, OR:

> Dear Senator Packwood:
>
> Originally I sent you the above letter with a NAFTA-no. You were kind enough to acknowledge my letter. We originally disagreed on this subject. Since then I have reevaluated my view and now support you on NAFTA. Your letter was informative and made me be aware. Mostly, today our President signed with some side agreements. I've heard, via the news that these agreements are supposed to protect our delicate global environment and protect American workers.

Mr. Gomes goes on, but here is a man who was initially opposed and has switched his position.

Finally, from Brian Warner of Beaverton, OR:

> We have a unique opportunity to create the largest trading bloc in the world. Mexico represents a huge potential market for United States goods, and the Mexican economy will continue to improve, giving them ever greater buying power, power to buy United States goods.
>
> As the rest of the world seems to be intent on ethnic and national division, we should stand apart and lead the way into the 21st century. Not only will we show the world our

true leadership, we will also benefit by assuring the continued dominance of our North American economy at a time when it is severely threatened by an emerging Pacific rim.

I support free trade and I support NAFTA. Please vote for NAFTA and for the future of our economy. Please do not listen to the voices that want to take our economy back to the 1950's; it cannot happen and it will not work.

Mr. President, let me conclude with something that I said yesterday. Mexico is not a poor country. This is not Bangladesh. This is not Sri Lanka. This is not Haiti. They have money to spend. Mexico per person, per capita spends more for American goods than any other country in the world. It spends more per person for American goods than Japan; it spends more per person for American goods than Germany. Germany and Japan are prosperous countries. Yet Mexico, allegedly a poor country, spends more per person.

What greater opportunity could we want than the opportunity to have unfettered access to Mexico's market which has an almost unlimited appetite for everything made in the United States. I hope this Senate when we vote, hopefully later this afternoon, will support the NAFTA treaty by an overwhelming majority. I yield the floor.

Several Senators addressed the Chair.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Michigan to be subtracted from the Democratic opponents' time.

Mr. RIEGLE. Mr. President, I know the Senator from Maryland wants to get into an exchange here, but, unfortunately, I cannot give my 10 minutes away for that purpose.

Mr. SARBANES. If the Senator could give me just 1 minute.

Will the Senator yield me 1 minute to make a point?

Mr. BAUCUS. Mr. President, I yield 1 minute but it must come from the time of the Democratic opponents.

Mr. SARBANES. I understand. I just want to address two points that the Senator from Oregon made.

First of all, any trading bloc which includes the United States in it will be the largest trading bloc in the world. The United States could enter into a free-trade agreement with a country much smaller than Mexico and that would be the largest trading bloc in the world because of the size of the American economy.

Second, the Senator said that Mexico spends more per person for United States goods than any other country. That is a very interesting observation. I wish to address it. The way that figure is arrived at so that assertion is made is they take the number of United States exports to Mexico and divide it by the number of Mexicans. But most of those United States exports into Mexico are intermediate goods which go from the United States to the maquiladora plants for assembly and then come back into the United States. They are never bought by Mexicans as part of consumer goods.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SARBANES. And another significant part of those figures are capital goods used to build plants in Mexico to export consumer goods into the United States.

Only 15 percent of United States exports going into Mexico are consumer goods. So the purchase by Mexicans is one-seventh of the figure which the Senator from Oregon is asserting to this body.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 10 minutes.

Mr. RIEGLE. I thank the Chair.

Mr. President, this is a sad and troubling moment in our national history. I am really struck by the disconnection between the debate here and what is really going on across the country at the present time in our communities, and in our national and family life.

The people of America trying to follow this debate and trying to relate it to what is going on in their own personal circumstances must think that we all live on a different planet because we talk in such a grand way about creating jobs in Mexico. There is a desperate need for creating jobs here in the United States, and we are not doing that. In fact, we are moving away from that.

So that is why, fundamentally, this is such a sad and troubling moment in our national history. We have a desperately serious job shortage problem in America today. It is our most important problem. Unemployment is rising in America. More and more workers are finding that they can only find part-time work. In many families both a mother and father are holding two jobs each, four jobs between them, often at or near the minimum wage, to try to generate just enough income to be able to scrape by.

There is very little time for family life, very little time to give to their children or other things because of this steady erosion not only in the sheer volume of jobs but in what our jobs in America are paying.

We have seen the income for our jobs dropping over the last 20 years. As a result, we are seeing a steady grinding down of the middle class in the United States. It used to be that a hard-working person could aspire to get to the middle class, have a middle-class standard of living, and perhaps even go beyond that. Now people are finding that they cannot keep themselves in the middle class. They are sliding back into lower and lower income areas.

The underclass of American citizens, those really in poverty, is growing at a terrifying rate, an absolutely terrifying rate. We see it in our urban centers in a dramatic way. But it is also happening in our rural areas, the rising level of poverty. If you go into the outlying areas of Michigan or any one of the 50 States, you will find in the rural areas people are just barely scraping by, driving old cars, maybe that have had four or five previous owners, that are unsafe. They cannot afford anything else. Many of them cannot even afford that.

Of course, in our urban centers, our urban youth, whether black or white youth, other minorities, are finding the unemployment rates are 50, 60, 70 percent.

So we have an urgent need for a job-growth strategy in America. The disaster of Reaganomics during the eighties, which was this cruel and destructive policy of trickle-down economics, has served to accelerate those trends and create a widening division in America between the rich, who have gotten much, much richer over that period as all the income figures show, and most other families who are working harder and harder and still are slipping backward.

NAFTA is the ultimate expression of trickle-down economics, and it is going to have a terribly damaging effect on our economy, on our working families, and on our social order. Most of the people in this country out beyond the beltway, beyond this insular ring of privilege here, most of the people in the country know that. They understand economics. They know how this is going to work. They have seen the jobs leaving the country before now, and they know this will accelerate those trends.

For our urban youth, who cannot find jobs, they are finding today that it is easier to get a gun than it is to be able to go out and get a job.

That is a prescription for disaster for America. And we are seeing it. We are seeing it in the mayhem, of all of the manifestations of the "Clockwork Orange" society that we are in, the unsafe society across this country that we are seeing today.

I cited recently a story about a mother of three who recently went to a bank teller machine in Detroit and took out some money. She was accosted by three youths. She was shot and killed by a 9-year-old who was accompanied by an 11-year-old and a 14-year-old. That is not an uncommon situation. That is a story in the paper today—another terrifying story of urban violence in our local community here.

It is not surprising that we are seeing our society coming apart, because you have to have enough jobs in society to hold your society together. People have to be able to work. They have to be able to make a contribution. They have to be able to earn, to support

themselves, and to support their families. If you do not have a job in America today, you are nobody. You are invisible. You, in effect, disappear.

In fact, even among our homeless population—we have over 500,000 homeless veterans today in the United States—people that wore the uniform of the country, went to serve, many of them in Desert Storm, who have come back and they cannot find work. They have been humiliated to the point where they are out living under bridges and in cardboard boxes because they have not found any way to hook into this economic system of ours.

The people that are going to make the money on NAFTA are the wealthy elite in this country. You can see it in what is happening in the stock market. You can see who stood up to speak for NAFTA; all the pin-striped suit crowd, all of the lobbying money that has been spent on it, the pundits, the people here within the beltway who love to gather in the salons of Georgetown and talk about how wonderful it is to be for free trade. They are out of the line of fire. They have plenty of money. They do not have to worry about their jobs.

The fact that somebody out in Flint, MI, or somebody in Chicago, somebody in some other State across the country is going to take it right between the eyes when they lose their jobs, it is an abstraction. It is a fine point. And it is very easy for them to dismiss because they are out of the line of fire. It does not mean very much to them.

That is what is wrong with America today. We have forgotten about our own people. We are in here now about to pass a job strategy for Mexico. We need a job strategy for the United States. We are about to bring 60 million Mexican workers into our work force who earn one-seventh to one-ninth of what our workers earn.

As Senator METZENBAUM just pointed out, our workers cannot compete with that. We cannot possibly compete with that. That is why we have had so many plants in America close and move to Mexico. We are going to see much more of that in the future. But we are also going to see the grinding down of the wage levels for the jobs that are still left in America because the owners of those firms are going to tell the workers, either you take less in wages and benefits or we are going to have to close and move to Mexico.

That is the inevitable effect of this. Yes; some will make billions. That is why the Mexican Government has spent tens of millions of dollars lobbying this thing through, because they stand to make vast fortunes. They bought and paid for the services of our own former U.S. Trade Ambassador, William Brock, who was hired by the Mexican Government, $30,000 a month they are paying. That is $360,000 a year. That is more than we pay the President of the United States.

He is one of dozens in our country that have sold out and gone to work to help ram this thing through. We saw what happened in the House of Representatives. We had NAFTA defeated 10 days ago. But then we saw the administration take out the checkbook of the American taxpayer and buy the votes they needed to turn that vote around. And every press outlet in the country reported on it. It has been in every newspaper, television, radio show, and program across the country talking about those deals.

That is how this vote got turned around. It has been driven by special interest money, and pressure and privilege, because some people stand to make tens of billions of dollars on moving our jobs to Mexico, and grinding down the wage levels here in the United States.

We desperately need to invest in our own people for a change. That is why Bush and Quayle were thrown out, to put an end to Reaganomics, an end to trickle-down economics. And how ironic it is that George Bush left that poisoned cup on the desk in the White House there, the NAFTA cup, and this administration sadly has come in and decided that they would just drink it right on down. That is what has happened here. It is a great shame. It is a great tragedy. We are going to pay for it in broken lives out across this country over the next several years.

It reminds me very much of Vietnam. We have a wall down there for the Vietnam veterans with 59,000 names.

Most of the names on that wall are not of the families of the economic elite of this country. We are going to have another wall, and it will be an invisible wall on which there will be 500,000, perhaps 5 million or more names of workers in this country—again not of the economic elite—who will lose their jobs or their chances for jobs in America because NAFTA is going to pass. Their job and job opportunity is going to go to Mexico, and it is going to be given to a worker down there working essentially at slave-labor wages. We are going to do without here in this country, and people will wonder how it is—our own people, desperate for work, are going to ask: How can we believe in America, when America does not believe in us?

How do we say to our urban youth: Love and believe in this country, but we have nothing for you? We cannot give you decent education or safe streets or a chance at a job, where you have some prospect of having a life and forming a family of your own and holding it together. No, we cannot do that in America today because we do not have enough job opportunity to go around. But we can go to Mexico with NAFTA and bring in 60 million Mexican workers to compete with our own.

It is wrong and ought to be voted down.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Oklahoma under the time taken from the Republican side.

Mr. NICKLES. Mr. President, I wish to thank my friend and colleague, Senator BAUCUS from Montana, and congratulate him for his leadership on this issue, and not just this week. He has made some very eloquent statements. Also, I thank him for his issuing strong support for free trade for the last several years. That has not been easy. Many in his party, as evidenced by the speech just made by our colleague from Michigan, strongly oppose this philosophy.

I wish to also compliment Senator PACKWOOD, who made an excellent speech not just this morning, but yesterday. He has been tireless in his effort in support of NAFTA.

I compliment Senator DOLE as well, who, from the outset, has taken a very strong bipartisan approach to passing this agreement.

I would like to compliment President Clinton, because during the campaign this issue would have been an easy thing to oppose, and yet he stated he would support it. I think the President was right in supporting NAFTA. I compliment him.

In addition, I want to compliment and congratulate Ronald Reagan because he advocated a free trade zone between all three countries as far back as 1979. We now see that his vision can become a reality.

I would like to, Mr. President, rebut a couple of the comments of my friend and colleague from Michigan. I heard the words "we cannot compete" used here. I have heard him say that "American labor cannot compete with Mexican labor." I disagree. I ran a manufacturing plant in Ponca City, OK, and I assure you we can compete. As a matter of fact, we make goods and services that can be sold in Mexico, and we want to expand that opportunity.

I will say that I know a lot of firms in my State of Oklahoma that have a significant wage differential, maybe seven times that which is offered in Mexico, but even they can compete. American labor can compete anywhere in the world with anyone, given the opportunity for free and fair trade. We do not have fair trade right now because there are high tariffs for most U.S. products going into Mexico—2½ times higher than ours on average. That is not fair. It does not allow Americans the opportunity for fair trade. Though my friend from Michigan is making strong statements saying "we cannot compete," many Americans are saying, "Let us compete; let us tear down those tariff and other trade barriers, and give American workers the opportunity to compete in this expanded market."

Mr. President, NAFTA provides a win-win situation. It will allow individuals in all three countries to benefit.

Where we have goods and services that we want to sell and which they want to buy, both parties benefit. And when both parties are trading voluntarily, it is a winning situation, and it is mutually advantageous. Since Mexico has liberalized their trade policies, we have seen trade grow substantially. In 1986, total trade between our two countries was $29 billion. In 1992, it grew to $75 billion. Did American firms lose in that growth? No. Actually, we gained. We went from a $5.7 billion trade deficit to a $5.6 billion trade surplus. So American workers not only competed, but we competed well. I would add that the living standards in both countries were enhanced by that increase in trade over the last 5 years.

As a matter of fact, Mexico is the fastest growing market for United States exports in the world, and that market will grow even more significantly if we pass this trade agreement. It will not, if we follow the philosophy of protectionism—building more barriers and tariffs to restrict free trade. That is the wrong philosophy.

Again, I compliment President Clinton and Ronald Reagan and BOB DOLE and BOB PACKWOOD and MAX BAUCUS, and others, who have supported free trade and advocated the opportunity to expand our markets. We are fighting for the individual rights of American plants and companies and employees to have an opportunity to compete in a market that is growing very rapidly, a market of 370 million people.

I agree that this agreement is not perfect. I have some problems with it. It is 2,000 pages. If you really think about it, you could probably draw a very simple free-trade agreement on one page, and you could say: Effective January 1, next year, we are going to eliminate all tariffs and trade barriers among all three countries. But we did not do that. We made it much more complicated, and it is going to keep tax lawyers and a lot of consultants busy for the next dozen years or so to comply with this trade agreement. I also say that I have reservations about the side agreements. I question their necessity, and I can see some litigation evolving from those additional agreements. I have looked at them very closely, and I really do not think they will do a serious amount of damage.

This trade agreement sends a signal to the entire world community—not just to the three countries—that America is willing to enhance trade, that we believe in free trade, and we do want to tear down tariff barriers. I think that is very positive.

And I also say that if we defeat NAFTA, we will do serious damage setting back Mexico because they are trying to liberalize trade. They are moving toward a free market. We asked the Soviet republics to do that, and also other countries that have been under the domination of totalitarian governments and Communist governments.

Americans believe in free trade, and we have to support it. That is what we are doing here by our affirmative votes for NAFTA. If we defeat this agreement, it would be doing the opposite.

The North American Free Trade Agreement is overwhelmingly in the national interest of the United States, and of our bordering neighbors. Seldom in the course of a Nation's commercial or diplomatic history does such an opportunity present itself, no less one which will impact the citizens of an entire continent. Passage of NAFTA will significantly bolster political and economic stability throughout North America, and will signal a new era of competitive market leadership for the United States.

In contrast, failure to secure the successful passage of NAFTA would send a disturbing signal that America is not confident in her ability to compete in the global economy. Nations far beyond the scope of North America would be rightly disillusioned, wondering why the world's most successful democracy—one founded on the vigorous opportunities and promises of free enterprise—would shrink from competition.

Though the slogan "compete or retreat" is a simple way to address the economic choice before us, the ramifications of retreating extend far beyond any immediate economic implications. Retreating would put at risk the financial and democratic stability of Mexico—and that possibility would clearly be unacceptable to permit on our watch.

NAFTA comes in the wake of tremendous advances within the Mexican political and economic systems. Under the leadership of President Salinas, ambitious reforms have taken root across their society. NAFTA will lock in and improve upon those positive transformations—which is clearly in our long-term national interest.

NAFTA will significantly reduce Mexican tariffs and other trade barriers, which average 2½ times higher than ours. All three nations will benefit from increasing trade and expanding economies. But without the benefit of NAFTA, Mexico could slip into an era of economic stagnation and decline. Any erosion of the recent progress made south of our border may lead to significant increases in Mexican unemployment, and consequently raise the tide of illegal immigration, drug traffic and social unrest.

Should NAFTA fail, not only will we be relinquishing the multiple economic and political benefits of this monumental agreement, but we will saddle future generations of Americans with serious national social problems.

I have said that, this is an enormous agreement, towering in its scope, and I would never claim all 2,000 pages are perfect. There will be, unfortunately, some displacement as markets adjust, yet many more new jobs will be created. NAFTA is an enormous opportunity—and our responsibility as legislators, Republican and Democrat, is to support the long-term national interest of America. For some, the vote will not be an easy one to cast; but for all, the world is watching to see if we step up to the challenge. We owe our children, our world neighbors, and ourselves that commitment to leadership. I urge my colleagues to vote for the North American Free Trade Agreement.

Mr. BAUCUS. I yield 10 minutes to the Senator from Tennessee, with the time taken off of the opponents on the Democratic side.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, over the past months, I have spent many hours meeting and talking with my fellow Tennesseans about the North American Free Trade Agreement. I have also listened with care to the debate that has been waged here in the Nation's Capital.

Over these weeks, I have tried to hear both sides. But I have also held to a fundamental first principal: No one, in my view, can participate meaningfully in this dialog without first stepping into the shoes of a young American father or mother who feels the pinch of declining wages, the pressure of increasing needs and the perpetual anxiety of a threatened livelihood.

Mr. President, having applied that simple humanity test to arguments and analyses both pro and con, I have concluded that I cannot in conscience vote to ratify this North American Free Trade Agreement.

Like everyone else, I could resort to the macro-economic model favored by my side of the issue to explain my position. And I could buttress my case with statistics from a wide range of authorities. But we all know the data is variable and disputable, while the humanity principle, in my view, is clear and unchanging.

This trade agreement will harm the working people of my State. More specifically, it will harm the most vulnerable working people of Tennessee—the people easiest to hurt and hardest to help, the Tennesseans whose present jobs are most tenuous and whose future prospects are most nebulous.

Again, my colleagues are well aware of the many economic models and analyses which characterize NAFTA as either a job creator or job killer. The Joint Economic Committee recently analyzed 16 of the major NAFTA economic impact studies.

We could easily spend many days going back and forth over those numbers and projections. However, none of the economic models answer all of our questions about NAFTA.

What is lost on the participants of this debate, is that all of the experts agree that at least some workers will

lose their jobs. Furthermore, the experts agree that those whom NAFTA put in greatest jeopardy are those who in recent years have already suffered the most dislocation due to other factors.

The job loss resulting from NAFTA will impact most severely those Americans already making the lowest wages and those Americans already most at risk of losing their jobs. NAFTA may offer help for many better paid workers and additional opportunity for those workers who already have the skills and the training to situate themselves comfortably. But for the low-skill, low-wage American worker, the prospect would turn from dim to bleak.

This fundamental asymmetry arises inescapably from this agreement. One group of Americans would bear a disproportionate burden of the NAFTA's pain and they would not get to share in its benefits.

I believe that we must be sensitive to this obvious disparity. After all, as many as a half a million Americans may lose jobs as a result of NAFTA. And, the difficulty of finding new jobs for those dislocated by NAFTA is largely ignored, especially considering the problems already faced by workers with few skills and meager resources.

Economic progress may require change in peoples' lives, but a humane society takes account of the pain that it often entails. We should be especially concerned when the pain falls on people who already are most vulnerable. And, we must recognize an obligation to make some provision for those who otherwise might be left behind.

I would point out, too, that American workers will not have to lose their jobs to be harmed by NAFTA. The agreement could have a chilling effect on wages and the standard of living for workers whose jobs remain in the United States. Many people do not understand that NAFTA's most important provisions concern foreign investment rather than tariffs and that NAFTA could put a downward pressure on U.S. wages caused by a company's threat of relocation.

It is no secret that many United States companies are relocating to Mexico because of rock-bottom wages and the absence of any real collective bargaining among Mexican workers. Zenith Electronics Chairman John Pearlman told the New York Times on March 21, 1993, that when it comes to relocating a plant "there is no question that Mexico's labor costs are decisive."

We should not fool ourselves. The gulf between Mexican and American wages remains enormous. For example, the Mexican minimum wage of $4.20 per day works out to 53 cents an hour. That is barely 3 percent of the U.S. average hourly compensation of $16.17. Average Mexican hourly compensation in all manufacturing is no only 15 percent of United States levels, far below the 22 percent of 1980.

Therefore, given this enormous disparity of wages, it will become increasingly difficult for American workers to bargain for wages that will maintain their current standard of living. NAFTA puts a gun to the American workers' head.

Pointing a finger South to the border, any American company could declare a wage threshold. Try to go beyond it, and the plant is moved to Mexico. Or management could demand wage concessions to keep a plant operating. NAFTA could totally distort the real value of work and wages in America. Instead of improving the Mexican standard of living, it could drag ours down.

The worst case scenario is that American companies will relocate some or all of their manufacturing operations to Mexico. This has been happening in my home State of Tennessee. Since 1986, at least 11 operations have closed in Tennessee and moved to Mexico. The companies represented include General Electric, Allied Signal, Phillips, Takata Corp., TRW, R.G. Barry, United Technologies, Sunbeam-Oster and Levi Strauss.

This massive relocation has cost over 5,600 jobs in communities from Memphis to Greenville. A county like Rhea, which Oster left, has few other job opportunities. There are few alternatives for those whose jobs were shipped to Mexico. In many rural counties in Tennessee, there is one plant. When that plant goes south, hope goes with it.

The pro-NAFTA forces say we will lose good paying jobs to Mexico regardless of whether NAFTA is passed or not. However, I see no reason to telescope those job losses. I see no reason to turn academic conjecture into a fait accompli.

And Mr. President, in this regard, I hope we are clear that NAFTA is not just a tariff agreement—far from it. The investment incentives and guarantees contained in this Agreement make it far easier and more attractive to move American jobs to Mexico.

The Congressional Budget Office has stated that NAFTA is meant to "attract and productively absorb foreign capital" and to make Mexico more appealing to United States investors.

The United States International Trade Commission has stated and I quote, "The pursuit of foreign capital and technology is generally acknowledged to be a major factor in Mexico's interest in NAFTA."

And what happens to an American worker who loses his or her job to NAFTA? Unfortunately the safety net created by NAFTA is a very loose weave and it will be very easy to slip through it into joblessness and poverty.

To keep costs down, the retraining program is funded at only $28 million a year. Only 5,185 workers per year would be eligible for 9 months of retraining. This is less than the 1-year training offered by the current Trade Adjustment Assistance Program.

The funding for retraining is wholly inadequate. The pro-NAFTA Institute for International Economics predicts an additional 25,000 to 30,000 dislocated workers a year due to NAFTA. And, according to the Congressional Budget Office, which is very conservative in its estimates, 200,000 workers would lose their jobs over a 10-year period because of NAFTA.

Given the potential job loss I would like to address the "Who Gets What" question that has bedeviled this debate. Those who support NAFTA see a burgeoning Mexican marketplace for United States goods. They argue that a growing Mexican economy and eager Mexican consumers will snap up United States goods.

The truth is that Mexican consumers never see most United States exports because they are largely capital equipment and assembly parts. Only 15 percent of exports to Mexico were finished consumer goods.

Mexican consumers pay an average of $50-a-year on American consumer goods versus the $450 which is cited by the administration. Mexican consumers simply do not have the purchasing power to buy American-made products.

We have also heard a great deal about NAFTA and the environment. Unfortunately, Mexico's extremely lax environmental laws and lax enforcement policies have made pollution profitable. NAFTA, done right, could be an extremely positive force to clean up Mexico's terribly polluted and toxic landscape.

Unfortunately, this NAFTA does not have the teeth, nor the resources to turn around Mexico's environmental wasteland. Enforcement of domestic environmental laws involves a closed-end, multi-step, tortuous process that is stacked against environmental and consumer concerns. Another country could even challenge our high health and safety standards.

One must get the consent of the other party to even proceed with a case. True enough, there are trade sanctions at the end of the process. However, under the scheme the negotiators decide upon, sanctions may never be available.

In addition, there is no assured source of funding for the massive border cleanup that must take place. And worst of all, there is no integrated border plan to require the cleanup in the first place.

Mr. President, in conclusion, I do not believe that the North American Free Trade Agreement is in the best interests of this Nation. There are too many unanswered questions, too many loose ends and too much pressure on the most vulnerable among us. I believe we can do better and I believe we should.

However, I am a realist and I know that this legislation will pass. Nonetheless, I want to put both of our governments on notice that along with others, we will be watching very closely the implementation of this Agreement. We will be watching to ensure that all of the safeguards and side agreements are carried out. We will be watching to see that workers rights and environmental regulations are strictly enforced. We will be watching to see that Mexico abides by our high standards, and that ours are not dragged down by theirs. Mr. President, I yield the floor.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that 3 minutes of the Republican time be transferred to the Democratic proponents.

Mr. President, I yield 15 minutes to the Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized for 15 minutes.

Mr. HARKIN. Mr. President, I have followed with great interest the national debate on the North American Free Trade Agreement. I have gathered as much information about it as I could in order to make a sound decision. This is not an easy decision for me. Many good arguments have been made by those favoring the agreement and those opposing it. The case is not overwhelming on either side of the issue. Iowans seem to agree, according to a recent poll which showed them evenly divided on the issue: 36 percent in favor, 36 percent opposed, and 28 percent undecided.

I have reached my decision on NAFTA based on whether the people of Iowa and our Nation will be better off with or without the agreement. After a great deal of consideration, it is my judgment that the balance tips somewhat in favor of supporting the agreement—perhaps 51 percent in favor and 49 percent against. I need not go into great detail about the various projected ramifications of NAFTA, which have been discussed at great length already. In any event, it is impossible to predict the future with certainty. So NAFTA involves a bit of a gamble, just like any action looking to the future. But I am satisfied that the odds are somewhat more favorable than unfavorable.

From an Iowa perspective, NAFTA has two main benefits: Reducing tariffs on our exports and promoting economic growth in Mexico that will make Mexico a better customer for our products. NAFTA will reduce tariffs and trade barriers that restrict exports of a number of our most important Iowa products: Agricultural commodities, such as corn, pork, and soybeans; processed foods; and manufactured goods such as industrial machinery and equipment and consumer products. Over time, the agreement is expected to promote the development of a middle class in Mexico that will be able to afford more of what we have to sell from Iowa and from the United States as a whole.

This, of course, is the key to Mexico's future: That it develop a strong middle class.

We know from experience that open markets and exports are decidedly in the best interest of Iowa and our Nation. NAFTA promises better markets and prices for our farmers.

My difficulty with NAFTA is not that it involves a tough decision, but with the nature of the choice that I have had to make. I have long stood for free and fair trade and improved exports because they mean economic growth and jobs at home. My State of Iowa stands to benefit greatly from open markets and exports. But I also know that Iowans share my concerns about other matters that temper the pursuit of free trade at any cost. Obviously, a perfect agreement is not achievable. No agreement can satisfy every critic. But I do believe we could have had a better agreement.

As he promised, President Clinton negotiated side agreements addressing deficiencies in the basic NAFTA text concerning labor and environmental issues. These side agreements contain innovative mechanisms designed to ensure enforcement of environmental and labor standards and protections, and to work toward higher standards for labor and environmental protection. Today we have virtually no influence on labor and environmental matters in Mexico. With the side agreements, NAFTA gives us new opportunities to promote better labor and environmental conditions for our neighbor to the south.

I must add, Mr. President, that a couple of years ago I announced my intention to seek my party's nomination for the office of President of the United States. During my brief and unsuccessful campaign, I described an alternative vision of NAFTA. I would have renegotiated NAFTA. This version of NAFTA would not have been before us, had my party nominated me and had I been elected. But that was not the case. The choice of our party is the President of the United States.

President Clinton had a different approach. He said he would negotiate side agreements to improve upon the basic text.

Again, I wish that the labor and environmental provisions were in the basic text of the agreement. That is where they belong.

For example, the side agreement on labor does not provide trade sanctions for violations of the basic right of labor to organize, bargain collectively and strike. Moreover, the labor side agreement lacks the enforcement teeth contained in the main NAFTA text for protecting capital, investments, and intellectual property rights. I asked Secretary of Labor Robert Reich about this matter at a hearing last month. I asked him why working people should be entitled to any less protection than property and pointed out that even with the side agreement on labor, NAFTA elevates property rights above human rights.

As long as we are talking about change, Mr. President, it is time to change this outdated view that somehow, in our negotiated agreements with other countries dealing with trade, we can protect everything that deals with capital and property but we cannot deal with protecting basic human rights. It is time to change that outdated view.

Although the labor side agreement improves upon the basic NAFTA text, more must be done. As a longtime advocate for human rights throughout the world, I encourage President Clinton to view NAFTA as only the starting point for addressing labor and other human rights problems in Mexico. I urge him to establish a special task force within his administration to monitor the effect of NAFTA on labor conditions in the United States, Mexico and Canada. This task force should cooperate closely with and report regularly to congressional committees having oversight responsibility on labor matters. We must be prepared to take strong action under NAFTA and, if necessary, to withdraw from the agreement if it worsens rather than improves the circumstances of working men and women.

The effectiveness of any agreement depends on commitment to enforcing it.

So I call on President Clinton to provide vigorous leadership in enforcing the side agreements on labor and environmental protection.

It is not difficult to see why U.S. working men and women are concerned about NAFTA, and why the arguments against NAFTA have become so impassioned. When adjusted for inflation, the earnings of full-time male workers in the United States have actually declined over the past 20 years. For the bottom 60 percent of male U.S. workers average real wages fell 20 percent between 1973 and 1992. As Lester Thurow has pointed out, the earnings potential of the bottom two-thirds of the U.S. work force is collapsing. Is it any wonder that these workers feel vulnerable to any perceived threat to their jobs or wages? How can we fault them if they do not share the enthusiasm for NAFTA of those comfortably ensconsed in academic, Government, and corporate offices?

NAFTA has become a rallying cry and symbol for much deeper problems in our Nation's economy—problems that have sapped the confidence of U.S. workers in their ability to compete and prosper in the rapidly changing world economy. The real root of these problems is not trade policy, but our failure

to make the kind of investments here at home in human resources, physical capital and infrastructure that are necessary for economic growth and productivity. We would not have become embroiled in this wrenching national debate over NAFTA if our working people felt they were getting the support they need to face new economic challenges. Consider the fate of President Clinton's package earlier this year of investments in worker skills and infrastructure, which was scaled back dramatically—too much, in my opinion—but still fell victim to a Senate filibuster. And promises of retraining assistance for those dislocated by NAFTA surely ring hollow to those who have been ignored for so long.

There is only $95 million in here for trade adjustment assistance.

Because NAFTA brought to a head frustrations that had been brewing for many years, it is little wonder that organized labor invested so much in trying to defeat it. Although it may appear that way now, I do not see approval of NAFTA as a rejection of labor's objectives of promoting workplace democracy and improving wages, working conditions and living standards here and in other countries. Nor do I believe that approval of NAFTA shows that labor is out of step. In the NAFTA debate, labor has given voice to legitimate concerns of our working men and women, and it has done so sincerely and with the best motivations. I disagree—and I disagree strongly—with President Clinton's unfair characterization of labor's efforts against NAFTA as "roughshod, musclebound." Those unwarranted code words were demeaning to every working person and to organized labor.

Also objectionable in all the rhetoric, has been the suggestion that Mexico is in some way not good enough to join us in a trade agreement. We have heard derisive comments about poor housing, low wage rates, environmental and health problems, drug trafficking, illegal immigration and various other matters. Much of this rhetoric is mean-spirited and frankly in my view, bigoted. Mexico is a country with its problems—just as we have our problems—but it is making progress on solving them. Mexico and its people have not deserved the disparaging rhetoric they have suffered in this debate.

I believe we will make more progress—on labor, environmental, human rights, and other issues—through engagement with Mexico under this imperfect agreement than we will by rejecting it and hoping for a better one. Samuel Johnson said that one "who waits to do a great deal of good at once will never do anything." We can approve this agreement and increase the odds of doing a substantial amount of good for our country and Mexico over a period of time. Or we can reject this agreement and wait for a better one that may well never come.

So, in the end, I believe the better course is to approve this agreement, with the hope, with the confidence, with the trust in President Clinton that he will take leadership, along with our partners Canada and Mexico, to enforce vigorously the side agreements and to ensure that labor, human rights, and environmental concerns take their rightful place at the table.

Mr. President, I ask unanimous consent that two articles on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN AMERICAN COMMON MARKET

(By Lester Thurow)

Each of these three books expresses a fundamental truth. Ross Perot and Pat Choate articulate a frustrated cry of real economic pain that is not being heard. Gary Hufbauer and Jeffrey Schott correctly argue that NAFTA will lead to more economic good than bad in the United States. Orme understands that NAFTA is really about fundamentally changing Mexico's long-run economic future. Its direct impact, good or bad, on the United States is *de minimis*.

Regardless of whose estimates you believe, the net increase or decrease in jobs is so small as to be lost in the rounding errors of American labor statistics. If Hufbauer and Schott are right, America will gain 170,000-jobs over five years. If Perot and Choate are right, 480,000 jobs will be lost. Historically the United States often has monthly gains or losses this big. The small stream of jobs produced or lost by NAFTA will not be noticed in a sea of 130 million American workers.

There are a lot of low-wage places in the world (one of them, Puerto Rico, already belongs to an American common market), where any business that simply wants low wages either has gone or will go. At most NAFTA might redirect some of this flow to Mexico. It is not going to change the magnitude of the future flow by an noticeable amount.

When it comes to estimating job losses or gains, the only truthful answer is that no one knows exactly how many jobs will be lost or gained. Neither of the two estimates is derived from detailed micro-economic studies of Mexican and American industries. Both are simply extrapolations drawn from historical analogies based on what once happened elsewhere in the world. Mexico is America's largest neighbor, shares thousands of miles of common border, and both the United States and Mexico live in the global economy of the 1990s. Even if detailed micro-economic studies were done it would not be possible to estimate job losses.

What we do know is that the direct impact on the United States will be very small. With a gross domestic product (GDP) only 4 to 5 percent that of the United States, Mexico will not be an economic locomotive for America. Its markets are too small to speed up American growth; its firms are not competitive enough to increase the enormous already existing global pressures to make American firms more efficient. Like its effects on jobs, Mexico's effects on American growth will be too small to be measured.

The "giant sucking sound" of jobs going south, as Perot puts it, or the engine roar of accelerating economic performance will in reality be but a minor rumble of economic indigestion or a small burp of economic contentment.

But as Orme correctly points out, very modest direct effects do not make NAFTA an unimportant agreement for either Mexico or the United States. All three books agree that NAFTA is vital to Mexico since it essentially locks Mexico into a private market framework and gives investors (Mexicans and foreigners) confidence that Mexico has permanently broken out of the Latin American swamp of erratic economic policies. If this assurance to investors makes Mexico in the long run into a much wealthier country than it otherwise would be, the United States has a lot to gain. Living next to a large prosperous neighbor is better than living next to a large poor neighbor—politically and economically.

While Perot and Choate are wrong to imply that keeping the Mexicans out of a free trade agreement with the United States will somehow help the average American worker, they are right to express a cry of pain. To put it bluntly, the American political process has lost sight of the economic well-being of the bottom 60 percent of its work force.

From 1973 to 1992 the per capita American GDP after correcting for inflation rose 27 percent. Yet over the same time period average wages for the bottom 60 percent of male workers fell 20 percent in real terms. Median male wages fell 12 percent. For non-supervisory workers (those who don't boss anyone else) real weekly wages fell 20 percent and hourly wages fell 13 percent. If one looks at young males 18 to 24 years of age who work full-time year-around (basically those who graduate from high school but do not go on to college) the percentage earning less than $12,195 (in 1990s dollars) more than doubled in the decade of the 1980s from 18 to 40 percent. For young women the increase was from 29 to 48 percent.

Earnings prospects are collapsing for the bottom two-thirds of the work force. Workers in this part of the earnings distribution don't have to be told by Ross Perot that the Bush administration wasn't thinking about their welfare when NAFTA was negotiated. And then, although President Clinton talked about them during the election, he has ignored them in his first year in office. Their number one need is not deficit reduction or even health care. It is good jobs.

Hufbauer and Schott point to what we all know must be done. "The ability of the NAFTA partners to gain maximum benefits from the pact with minimum adjustment costs depends importantly on maintaining domestic economic policies that ensure growth." Falling wages "reflect larger forces in the US economy, especially low rates of investment both in human training and in physical capital. The right policy response to poor US wage gains will not be found in trade barriers." True, but it is equally true that what needs to happen to restore rising wages isn't happening—and is not likely to happen.

After suffering two decades of falling real wages it is not surprising that Ross Perot can appeal to millions of Americans who lash out at the Mexicans in their frustration. The real answer to their problems lies elsewhere, but there is not even a glimmer of hope that those real answers will be adopted. President Clinton's $100 billion in skill and infrastructure investment disappeared into Senator Dole's black hole of a filibuster earlier this year and hasn't been heard from since. Whatever the talk about retraining those who will be hurt by NAFTA (and everyone agrees that some will be hurt), the historical record would lead even an optimist to the conclusion that it won't happen. Such retraining

has oft been promised but seldom successfully done.

Orme points out that the ultimate benefit of integration with Mexico depends upon whether you believe that the United States is fundamentally complementary or competitive with Mexico. The unfortunate truth is that it is both. America is now a First World economy with a large, growing Third World economy in its midst. The First World part of the American economy will benefit from integration. It is complementary with Mexico. Unfortunately the Third World part of the U.S. economy is fundamentally competitive. It faces what economists know as "factor price equalization." If business can hire Third World skills at Third World wages elsewhere, why should they pay more for Third World skills just because the people with those skills happen to be found in a First World country, the United States? They shouldn't, they aren't and they won't—even if NAFTA is defeated. There is always somewhere else to go.

Ideally NAFTA should be seen as a phase 1 agreement with a phase 2 agreement to follow. The phase 2 agreement would seek to make Mexico and the United States into a joint production area that could export more to the rest of the world by combining high value-added American components with labor-intensive Mexican processes to make both of us more competitive in world markets. Since much of the integration between Mexico and the United States will happen even if NAFTA is not ratified, the real question about NAFTA is whether it can be used as a good management agreement to make that inevitable integration less painful on both sides of the border than it otherwise would be.

But when it comes to that bottom line so beloved by economists, there is a simple truth. After seating the Canadians at our economic table and after two presidents of the United States have extended an official invitation to the Mexicans to join us for dinner, retracting that invitation isn't a very attractive prospect. We would be saying to ourselves and the world that we are willing to sit down to share a common economic meal with the Canadians—but not the Mexicans.

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AND A REALITY CHECK

(By Robert J. Samuelson)

There's a great fog over NAFTA. We are told that it's about jobs. It isn't. At most, NAFTA will produce small job gains or losses. NAFTA is mainly about how we deal with Mexico. If there's a historic parallel, it's the Marshall Plan. In 1947 Europe was hungry and desperate. By supplying food, fuel and machinery, we sought to build strong and stable allies.

NAFTA is a gamble in the same spirit, though it doesn't involve massive U.S. aid. The basic idea is to help Mexico escape its poverty through trade and investment on the theory that a richer Mexico would be a better neighbor. The gamble is worth taking. We share huge interests and problems: trade, drugs, immigration and the environment. By itself, Mexico's prosperity wouldn't bridge all our political and cultural differences—but it might make them more manageable.

Listening to the bitter NAFTA debate, you wouldn't know that this is the central issue. The White House has mistakenly chosen to engage the debate on narrow trade grounds. The whole affair has become an emotional and misleading argument about jobs. NAFTA is being attacked for problems it will not cause and praise for benefits it will not produce.

House Majority Leader Richard Gephardt—the best-known NAFTA opponent after Ross Perot—deplores the "hemorrhage of American jobs across the border." What hemorrhage? Perhaps he's referring to the 386,000 jobs created between 1980 and 1992 in Mexico's maquiladora industries along the U.S. border. That's a big number, but it's only 2 percent of the 18.2 million jobs created in the United States during the same period. Not all the maquiladora jobs came from U.S. plants, and many that did would have gone elsewhere (Asia, the Caribbean) if they hadn't moved to Mexico.

Not to be outdone, the White House says NAFTA will create 200,000 new jobs by 1994. Whoa. The estimate is two to five times higher than private projections. It also implies that NAFTA would be a major contributor to job growth. Not so. Even if the White House estimate came true, those jobs would represent only a tiny fraction of the 4.9 million new jobs that the Congressional Budget Office expects by 1995.

The truth is that NAFTA's immediate economic impact on us, for good or ill, would be small. The reason is that Mexico—with a third of our population—has an economy only one-twentieth as large. (In 1992 it had a GDP of $324 billion compared with our $6 trillion.) It can't afford to buy that much from us. Nor is the lure of Mexico's low wages that compelling to our industry. Mexican workers aren't as productive as American workers. The transport and communications systems are fairly primitive. In 1992 Mexico had less than 5,000 miles of paved four-lane highways.

The jobs obsession perpetuates the worst myths about trade. Beyond rabid union opposition, what sustains the fight against NAFTA are deep suspicions that trade is to blame for most of our economic woes. Half the respondents in one survey thought NAFTA would lower living standards. Popular wisdom, though, is wrong. Trade plays a "surprisingly little role" in our economic troubles, as a study by international economists Paul Krugman and Robert Lawrence finds. Consider three myths.

Myth: Our industries, uncompetitive in world markets, are steadily losing ground.

In fact, the United States remains the world's largest exporter. In 1992 it accounted for 12.3 percent of global exports, followed by Germany (11.8 percent) and Japan (9.3 percent). Until 1992, our trade deficit had been declining rapidly; the recent reversal reflects slumps in Europe and Japan.

Myth: Trade has destroyed millions of high-paying manufacturing jobs.

Some industries—autos, steel, apparel—have suffered, and the number of manufacturing jobs (18.2 million in 1992) is actually lower than in 1970. But the main cause of stagnating employment is that U.S. industry has become more efficient. Manufacturing output has doubled since 1970. The same number of workers produces more; trade hasn't "deindustrialized" America.

Myth: Low-wage competition is driving down the wages of unskilled workers.

The main reason this isn't true is that competition from low-wage countries affects only a small share of U.S. workers. High-wage countries provide most of our imports; Japan and Canada alone supply nearly two-fifths. In turn, trade affects only about a third of manufacturing, and manufacturing accounts for less than a fifth of all U.S. jobs. Most economists think that computers have reduced the demand for less-skilled workers and, therefore, their wages.

Myths like these sustain the anti-NAFTA case. Gephardt warns that the agreement might depress all U.S. wages and living standards. Nonsense. Mexico provides only 7 percent of our imports, and it already has largely free trade with us. American tariffs on its exports average 1.9 percent. Some U.S. industries would lose protection over 10 to 15 years under NAFTA—sugar, citrus, apparel. Still, the White House, for all its exaggeration, is probably right that the agreement will initially boost U.S. exports. Mexico's barriers to or products are higher and will fall further. Chrysler estimates that NAFTA would enable it to sell 25,000 more cars to Mexico by 1995.

The irony is that Mexico is giving up more protection in NAFTA than we are. It is doing so to reassure investors, foreign and domestic, that it is permanently liberalizing its trade and investment polices. The aim is to stimulate an investment boom that will expand Mexico's internal production and modernize its roads, ports, and telephones. Mexico will export more, but it will also import more because it will need advanced equipment for its industry. Indeed, that has already happened. Our trade surplus with Mexico in 1992 was $5.4 billion.

But NAFTA will not succeed or fail on a few years' trade statistics. Its real promise is to foster a more middle-class Mexico and reduce immigration to the United States. It will be a decade or more before anyone can judge whether the gamble is paying off. The question now is whether we have the patience to make it. NAFTA's opponents are—despite disavowals—preaching protectionism, and there larger agenda is to make fundamental changes in U.S. policies.

In that sense, NAFTA is a symbolic lightning rod for wider frustrations. This is why the debate has strayed so far from facts and become so misleading. What Congress does will, like its decision on the Marshall Plan, make a broader statement about our self-confidence and good judgment.

Mr. HARKIN. Mr. President, I yield back whatever time I had.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, on behalf of Senator BAUCUS, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Massachusetts for 10 minutes.

Mr. KENNEDY. Mr. President, the decision on the North American Free Trade Agreement is an extremely difficult one for all of us who care about the lives and the future of working men and women and their families.

The strengths of this agreement are bitter-sweet—because they remind us how defective NAFTA is in other ways.

It is easy to understand why business is salivating over NAFTA and labor is spitting at it. This NAFTA contains far-reaching safeguards for U.S. enterprises that decide to invest in Mexico. But its great defect is that it fails to offer equivalent safeguards for American workers whose jobs are jeopardized or whose wages are held down.

We all know the relentless succession of economic shocks and pain that families have had to endure in recent years—the recession, continuing unemployment, defense cutbacks, company

layoffs, and the insidious modern euphemism that sends shivers down the spine of workers—corporate downsizing. All of these shocks will now be compounded by the shock of NAFTA, and working men and women are right to be angry.

Economists tell us that NAFTA will mean a net gain in jobs in the years ahead for Massachusetts and so many other States. But what is causing so much difficulty is the little word with big implications—net. That word slips easily off economists' tongues. But it has a devastating impact on all those who are caught in the net and whose jobs and livelihoods are at risk.

What do we say to all those workers who will lose their jobs because of NAFTA? It is no comfort to them that others—some faceless others—will gain jobs in larger numbers.

The anguish that so many families feel is eloquently stated in a letter I received on NAFTA from a constituent in Massachusetts. His name is Richard Walker. He works for Raytheon, and this is what he writes:

DEAR SENATOR KENNEDY: I'm writing you today because of the deep concerns I have about the rapid destruction of what is left of the middle class in our country. NAFTA will be the final blow.

I've been with Raytheon Company for 12 years. Presently, I'm a troubleshooter at the Missile Systems Division in Quincy. I've been working on the AMRAAM program for over 4 years. Our competition at AMRAAM is Hughes. Hughes produces AMRAAM in Tucson. Mexico is thirty miles away where the wages are 80 cents per hour. How will Raytheon compete? Management at Raytheon showed our union negotiating team a "Frontline" documentary on what Hughes is up to in Tucson. Raytheon is using this as a bargaining tool.

This does not bode well for the 30,000 Raytheon workers in Eastern Massachusetts or all the small electronic companies that supply us at Raytheon. A couple of weeks ago, we had another large round of lay-offs. It wears heavily on me when I see people crying in the hallways at work. I've never seen anything like it. They are crying because there are no jobs out there. Senator, we can't all retrain for jobs in the health care industry. The hospitals in Boston are laying off.

My wife Mary and I have been blessed with 2 sons. Michael, age 5, and Kevin, age 1. I'm lying awake some of these nights wondering how I'm going to continue to feed my family.

Eight years ago, we were able to buy a cottage in Yarmouth. We were participants of the American Dream, working hard and enjoying the fruits of our labor. Now the cottage is for sale, and I just got a package from the Greensboro, North Carolina, Chamber of Commerce. With 12 years at Raytheon, I doubt I will see 13.

Senator Kennedy, we are being forced out of the Commonwealth. The family, friends and State we love, we are probably going to have to leave. We are the Okies of the 90's. A friend of mine in West Roxbury just moved his family to Greensboro. High tech has been going South just like the mills did. Our Commonwealth is exporting people. Our Nation now has more people working for the Government than are in manufacturing.

NAFTA will just speed up this process and push what is left of manufacturing right into Mexico. It seems the Republican Party theme of, "I've got mine, screw everyone else," is firmly entrenched in this country.

Senator, as a member of the rapidly vanishing middle class, I can say in earnest, we are getting clobbered out here. Corporate greed and downsizing are the plagues of the 90's.

Where will it bottom? Unemployment from cradle to grave? Hanging by a thread day after day was not in my game plan. I just want hope and dreams back in my life and above all a future for my kids.

RICHARD J. WALKER.

West Roxbury, MA.

As Mr. Walker's letter proves, ordinary citizens who are not bankers or investors are deeply concerned about how NAFTA will affect their jobs. Some are union members, and many others are not. They share a common fear. They have seen average real wages grow by only 7.5 percent in the last 20 years, and many of them have actually lost income, or even lost their jobs. They fear for their future, and their children's future.

These concerns cannot be contemptuously dismissed as the so-called parochial views of backward-looking labor leaders. They are legitimate fears of concerned and progressive men and women who have built this country and made it great. Now, faced with NAFTA, they worry that they are being sacrificed on the altar of someone else's economic theory.

They are rightly suspicious of those who favor NAFTA and who so cavalierly dismiss workers' concerns, but have never felt their pain.

The union leaders and union members who oppose this NAFTA are not isolationists or protectionists.

For decades, the labor movement has stood as a bulwark for freedom and democracy against tyranny around the world. The labor movement was essential in making America a strong society. Its advocacy of progressive legislation has brought immense benefits to all Americans, whether or not they have a union card.

Without their active support, we would never have enacted Social Security, Medicare and Medicaid, or the civil rights laws that have transformed America in the past half century. Their commitment to these and many other causes has improved the lives of working families in the United States and throughout the world.

Earlier this year, Republicans in the Senate blocked a vote on the President's $16 billion job creation bill, which would have created more jobs than NAFTA will cost. Many of my Republican colleagues have made it very difficult to extend unemployment benefits. Many of them say that they will block or severely cut back health reform. They oppose needed measures to improve workers' health and safety.

But standing against these compelling arguments against NAFTA is a larger overriding truth. All of the problems that working families face because of the Nation's inability and unwillingness to deal with the dislocations they are suffering will be even worse if NAFTA is defeated.

With NAFTA, there is at least some chance that the worst of the job losses will be reduced, that fewer plants will be induced to move to Mexico to take advantage of shamefully low wages and lax pollution rules, and that some firms previously considering a move to Mexico to reach the market there will now stay in the United States and rely on the important new opportunities for exports opened up by NAFTA.

In addition, there are obvious benefits under NAFTA for many sectors of our economy in Massachusetts. Mexico is a good export market for our State. Our exports to Mexico more than doubled between 1987 and 1992. Over 5,000 jobs in our State are supported by exports to Mexico, and over half of those jobs were created in the past 5 years.

An important part of our State's economic future relies on export industries. NAFTA will eliminate tariffs of up to 20 percent on computers. It will assure intellectual property protections for software, biotechnology, and other high-tech firms. It will reduce other tariffs and nontrade barriers, and open up Mexican Government procurement for sectors like scientific instruments and telecommunications equipment. Financial service firms and firms at the cutting edge of emerging technology in the environmental, health, scientific, plastics, and computer services areas will benefit. Future economic growth in Massachusetts is heavily dependent on these sectors.

Passing NAFTA is also essential if we are to succeed in completing the Uruguay round of GATT, and breaking down trade barriers to our products throughout the world.

We cannot turn our back on progress or cast our votes against the future. Massachusetts, like America, has prospered over the years because of trade, and we can prosper in the years ahead because of trade.

Our challenge is to see that trade is fair as well as free. This NAFTA is only a beginning. It is not the final word. We can work to improve it in the months and years ahead, just as the administration has acted in recent weeks to accommodate the concerns of many in Congress who were reluctant to support the original agreement.

Above all, we owe the most help to those who will be hurt the most by this agreement. In voting for NAFTA, I pledge to do all I can to alleviate the burden, and I am confident that the Clinton administration will be an effective and committed partner in this effort.

President Kennedy understood that when the economy is wrong, nothing else is right. The Trade Expansion Act of 1962 was one of the central economic

achievements of his administration. It helped to end a long period of recession and stagnation, and begin one of the longest uninterrupted periods of growth and prosperity in our history.

As he often said, a rising tide lifts all the boats. If we are faithful to that principle, if we make a new commitment to fulfill it, then NAFTA, for all its faults, can be a success, and bring a brighter future.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for 2 minutes.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Montana. I think this truly has been a bipartisan effort. My friend, the Senator from Massachusetts, was talking about some of the other issues where we may have differed, but I think this is a bipartisan effort, and I applaud the President and the Republican leadership and the Democratic leadership for coming together on something that is going to make a difference for America.

To keep the jobs in this country for the working people of America, it is fundamental that America must continue to increase —increase our industries, increase our markets. It is new industries and new markets that will create the new jobs for the working people of America, and that is what NAFTA will do. It is said a rising tide lifts all boats. That is what NAFTA is. We are going to work with our neighbor to the south, and their economy is going to improve, just as it has dramatically over the last 5 years. As they grow, so do we.

One of six jobs in America depends on exports. One of every three acres farmed in our country is for export. Exports equal jobs. So I am proud to support NAFTA.

Illegal immigration has been a problem for this country. I have said many times, and I will say it again, that I have never been so impressed as I was by President Salinas of Mexico when he spoke in Texas in 1991 and he said: We must come together in a common market because we want to export goods not people.

So by having NAFTA build the economy of Mexico while it builds jobs in America, we are going to see our relations with our sister country improve dramatically.

To see our relations with Mexico improve is very, very important for the illegal immigration problem. NAFTA is not an end; NAFTA is a beginning. Canada, the United States and Mexico will create the largest trading alliance in the entire world. What we will take from this when we go through it and it works, is go all the way to the tip of South America. I will just say that the alliance of the Americas will be our strength of the future. Thank you, Mr. President.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

## MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there now be a period for morning business for purposes of the discussion on NAFTA; that the Senators who controlled the time during the consideration of the legislation now be in charge of yielding time to Senators for the purpose of speaking on the subject of NAFTA.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I now yield to the Senator from Kentucky for as much time as he wishes to consume.

### WHAT KIND OF FUTURE DO WE FACE?

Mr. FORD. Mr. President, I thank the majority leader for allowing us this period of time. There have been so many who have wanted to speak, both pro and con, as it relates to this issue and it is one that has the rapt attention, I think, of the American people. I thank the floor manager for the proponents in handling this in such a manner.

Mr. President, I have listened carefully to the debate. I have examined the treaty very closely, read the economic forecasts and, most important, I have listened to my constituents on both sides of this issue.

Never before have so many Americans and, yes, so many Kentuckians, paid this kind of attention to a proposed trade agreement. They are paying attention because they recognize that NAFTA is about more than just trade policies. It is about what kind of an economy, what kind of standard of living and what kind of future we are to face. It is not just trade, it is about people.

Despite the intense interest, proponents of the treaty have casually dismissed the fears of those who see America coming out on the short end of this deal, of those who see their jobs and business opportunities going south.

Mr. President, who is to say their fears and their interests are not the interests of the Nation, that their fears and their interests are somehow less important, less valuable than those who expect to gain from this treaty?

I am certainly not prepared to say that. Because while I received plenty of those mass mailing postcards and plenty of those computer-generated letters, it was the letters penned on plain old lined notebook paper with just a few sentences that seemed to get to the core of this debate.

There was a letter from a man in Bradfordsville, KY, that asked me just one question: Why should Mexicans want to buy American corn when other South American countries, with little or no standards, produce and sell corn cheaper because of the much lower standards?

There was the letter from a couple in Lebanon, KY, who said they just did not get it. The Government must be trying to pull the wool over the public's eyes. Low Mexican wages might entice manufacturing jobs down south, but how would they increase the average Mexican's ability to buy more U.S. goods?

There was the man from Campbellsville who said that perhaps exports would increase to Mexico, but at what price?

I read a column the other day that disturbed me greatly. That column said whether we gain 300,000 jobs or lose 200,000 jobs is meaningless in a Nation of 130 million jobs.

It is a sad day, Mr. President, in this country when we dismiss thousands of people and their families as meaningless. I say to my friends these letterwriters are not meaningless to me. They are my constituents. They are the men and women who are trying to hold on to their jobs in times of corporate streamlining and downsizing. That is a good word, Mr. President: "Downsizing." That is really laying off, being fired, losing your job. There are families trying to save for their children's education and for their retirement. They are the people who make our communities strong and carry the hope of a better life for the future generations.

Remember them? They are the ones who played by the rules and believed that hard work pays off. And they are the people whose plain old common sense—not fear—says something about the agreement is not fair. If the agreement passes, I sincerely hope that 300,000 jobs are created rather than 200,000 jobs lost. I sincerely hope that we see an explosion of United States goods and products being bought by the people of Mexico. I sincerely hope that if large corporations move south, our small businesses will be able to compete against lower wages, lower taxes and fewer regulations.

But hope will not win my vote today. My concerns have not been alleviated in this debate. No one has adequately answered how this treaty assures that we will not see the one-way flood of goods from Mexico, will not see Mexico become an export platform for other nations with low wages and substandard conditions.

No one has guaranteed that farmers and small businesses will be able to survive the 10 to 15 years that NAFTA allows Mexico to phase out its high barriers to agriculture and industry. No one has explained why we must pick winners and losers. Mr. President, no one has explained to this Senator why NAFTA must pick winners and losers among the U.S. industry with incentives for big business to move south

and simply a wish of "good luck" as they leave to the small businesses left behind to fend for themselves—small businesses who live under OSHA, clean air, clean water, and minimum wage and Federal regulations.

Where is the logic in encouraging large businesses to back up while heaping higher and higher standards and higher costs on those who remain?

No one has explained to me how this treaty can be a quick-fix for the American economy. It is wrong to rely exclusively on exports to Mexico to boost our economy.

Exports are only 10 percent of our overall economic activity, and exports to Mexico are a small fraction of that 10 percent. No one has explained to me how, when we currently export almost $50 billion to Mexico, with only $7 billion reaching the Mexican consumer, and the rest coming back as finished goods, that equals more jobs for Americans and more Mexicans purchasing our goods.

That is a false figure, Mr. President. When you count the export and it is going to be assembled in Mexico and come back with a low tariff and low wages, how do we gain many American jobs?

Just how much increased buying power can we squeeze out of a country that makes up only 4 percent of the total buying power of our three countries combined? We hear so much about the $7 trillion economy, $7 trillion economy that we will be able to create here. Well, $6 trillion of that is the United States; 11 percent is Canada and 4 percent is Mexico. Mr. President, that just does not compute, at least not on a computer made in the United States of America.

But perhaps the best lesson is history itself. We heard all these same arguments before China opened up to trade. The talk was just as big. We were going to sell goods faster than we could make them. Yet, while there have certainly been improvements for the average Chinese citizen, trade is still very much a one-way street with China. Our trade deficit with China, our second largest, has increased every year since we opened the door to trading and is now nearing a $30 billion deficit in balance of trade with these United States.

I am not against raising Mexico's standards to meet ours, but no one can explain to those Kentuckians with doubts how we can risk lowering our standards for the sake of signing this agreement.

I am not against free trade with Mexico, and neither are those Kentuckians who have written to me. We need to foster trade relations with our neighbors to the north and to the south. It is in the best interests of the United States that we build a strong trading bloc in this hemisphere, but this agreement does not do it.

What we are against is accepting second best, and this treaty is second best. I believe we can do better than this treaty. My vote today is not a vote for isolationism, but there happens to be some isolationism now in this treaty. Kentucky does not sell any citrus, but we put a barrier up now for citrus. We do not sell sugar, but they put a barrier up to isolate us on sugar sales and others.

In Kentucky, for instance, we do sell a lot of tobacco and we sell tobacco to Mexico. We have had a 20-percent tariff, a request for license fee and franchise fee. They dropped the license fee and franchise fee but raised the tariff to 50 percent. So now it takes us 6 years to get back to where we are today with Mexico, and 10 years to get back to zero. So Kentucky did not receive any favors.

As that constituent of mine wrote, how in the world are they going to buy our grain when they can buy it from other countries cheaper with less standards?

Mr. President, it is not a vote for isolationism but a vote for going back to the drawing board for a deal that takes the American people's concerns seriously.

I compliment President Clinton on his efforts to improve this treaty. Regardless of the vote today, I stand ready to work with him to ensure that this treaty ultimately works for the benefit of all Americans. But for today, Mr. President, my vote is with those people others call "meaningless." I will oppose NAFTA.

I thank the floor leader and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I would like to say a few words about wages as a component of this decision that all of us are about to make.

Many people are concerned that because wages are lower in Mexico than they are in the United States, as a consequence of that, and as a consequence of the passage of the North American Free Trade Agreement, many jobs are going to go south to Mexico.

First, Mr. President, I think it is important to remind all of us that the degree to which jobs have moved south to Mexico, or to any other country—and there has been some of that, no doubt about that, and it is a consequence of intense global competition, particularly in the last 10, 20, 30 years—has happened without any NAFTA. NAFTA did not cause that, because there is no NAFTA. We are here today to decide whether or not to approve the NAFTA.

What is important to know is that Mexico does have low wages. That is true. The minimum wage is quite low. It is 50, 60 cents, something like that, per hour. But the average wage in Mexico is about $2.50, a lot lower than United States wages, but not quite as low as some of the opponents like to say.

Wage rates are a part of investment decisions. There is no doubt about that. It is a factor that any businessman or business woman takes into consideration when deciding whether to locate a plant in one location or another.

But I think if we are honest with ourselves, we also have to recognize that there are many other factors in addition to wages. What are they? One is the cost of health care. Another is the crime rate. What is the crime rate in one location versus another? Literacy, what is the literacy rate? Obviously, the better the literacy rate, the higher the rate, the more attractive it is for a company to locate in that part of the world compared to others.

Schools, what is the school system? Taxes is a big factor. What about the frequency of power outages? It is a big cost to a company if the power outage frequency is much higher in one part of the world than another. Power outage is quite infrequent in the United States, but it is much more frequent in other countries, including Mexico, which has a fairly high frequency of power outages. That means all construction has to stop. The plant line has to stop. It is very chaotic. And starting up a line again, a production line, after it is stopped, also is quite costly. It is very inefficient.

What about the cost of transport, the quality of the telecommunications system? The United States has a quite good telecommunications system. It is very good. It helps a company's production, increases companies' productivity. But other countries have poor quality telecommunications systems. That is a factor a business person takes into consideration when deciding to locate a plant in one part of the world or another. What about the productivity of its workers? Productivity is probably close to the bottom line that any employer must take into consideration.

If a company cares only about wages, Mr. President—and the fact is most companies do not care only about wages. There are many companies in the United States where wages are an extremely low percentage of the cost of the total production.

Mr. President, this debate asks us basic questions about our economic future. And it poses basic questions about ourselves.

Must we hang onto the past and preserve the status quo—or can we open new frontiers and find new opportunities?

Can we compete in the world market and remain a world leader?

Are we guided by our fears or by our hopes?

NAFTA'S EFFECT ON OUR ECONOMY

To answer these questions, let us look first at the details of NAFTA.

What does it mean for our economy, sector by sector?

Manufacturing. The U.S. International Trade Commission finds NAFTA will raise U.S. exports by 16 percent or more in autos and auto parts, electronics, ceramics, computers, and computer parts. They go up 6 to 15 percent in bearings, machine tools, pharmaceuticals, chemicals, industrial machinery, and major household appliances. Employment will rise by up to 5 percent in steel, textiles, bearings, pharmaceuticals, machine tools, and chemicals. We pick up 8,000 jobs by partially opening PEMEX, Mexico's oil monopoly, to American contract bids. Environmental technology firms find a huge new market.

In agriculture, NAFTA means big gains for U.S. exports of wheat, feed grain, corn, beef, and other commodities. Mexico's agricultural tariffs average 16 percent. They go as high as 25 percent on frozen beef. NAFTA brings them all down to zero. And that means $2 to $2.5 billion more in agricultural exports every year.

For service industries like banks and insurers, NAFTA is the best opportunity in years. Today, for example, only 20 percent of Mexican drivers and 8 percent of Mexican homeowners have insurance. American insurance companies will have the same access to Mexico that Mexican firms have today to the United States.

On intellectual property, NAFTA is the best trade agreement ever concluded. It brings Mexico up to the highest international standards. It defends the works and inventions of our writers, software authors, inventors, pharmaceutical firms, and recording artists from piracy. That means they will export more and create more jobs in America.

JOBS, EXPORTS AND GROWTH

Now let us step back a bit and look at the whole picture. What does NAFTA mean for our country?

First, jobs. The International Trade Commission finds NAFTA will create a net of at least 95,000 new American jobs, on top of the 700,000 American jobs that already depend on exports to Mexico and Canada. All will be threatened if we reject NAFTA. Nineteen of twenty studies say NAFTA means jobs.

Opponents of the NAFTA say it cuts loss of deals but not one for workers. Wrong. There is one deal for workers—it is the whole NAFTA. The entire NAFTA is devoted to creating jobs for working people. NAFTA is a jobs agreement.

Second, exports. NAFTA strengthens the trends that raised our exports to Mexico from $12.4 billion in 1987 to $40.6 billion last year, and converted a $5.7 billion trade deficit with Mexico to a $5.4 billion trade surplus this year. And for those of you who wonder, 85 percent of the growth in our trade with Mexico has come outside the maquiladora system.

Third, competitiveness. NAFTA enlarges our home market by 88 million Mexican citizens. Half of them are under 18 years old. As they grow up, they will create a boom in consumer goods that will last decades. And NAFTA will give us a permanent advantage over Japan, the EC, and East Asia in this market.

And finally, growth. NAFTA raises our GNP, permanently, by 0.5 percent. That's $25 billion a year, every year. And since a bigger economy means more revenue, it cuts the deficit at the same time. No serious economist disputes that. Free trade means more economic activity; and that means more revenue. Every major trade agreement has brought in revenue. So will NAFTA.

What is the wildest exaggeration of NAFTA's cost? Totaling every NAFTA-related expense and tariff loss; plus billions we have to spend anyway on border cleanup; and adding a few billion more for fun, NAFTA opponents say it could cost $30 billion. Well, the $25 billion a year in new growth matches that in 1 year and 3 months. Our investment starts paying in March, 1995.

ENVIRONMENTAL PROTECTION

What about the environment? Today we have a disaster on the border. The GAO finds that 8 out of 10 maquiladora plants operate in blatant violation of Mexican environmental law. Last June I visited Juarez. I saw them, and smelled them, for myself.

Today, 55 million gallons of industrial waste and 24 million gallons of raw sewage will pour out of Juarez into the Rio Grande. Today, 50 million gallons of sewage will gush into the Tijuana River. Yesterday, too, and tomorrow, and every day.

We cannot do a thing about it if NAFTA fails. But if NAFTA passes, under the environmental side agreement we can demand that Mexico enforce its laws; and impose trade sanctions if it will not. And, of course, NAFTA sets a precedent for including environmental issues in the GATT and all our trade agreements.

The National Audubon Society explains it perfectly:

> NAFTA is a new kind of trade agreement—one which considers the environmental consequences of free trade, and one which attempts to change an unacceptable environmental status quo. * * * [T]he interests of wildlife and the environment are better served with NAFTA and the Side Agreement than without then.

If you say this is still not enough, you make the perfect the bitter enemy of the good. Maybe you think dispute resolution will take too long. But what is the alternative? If we reject NAFTA, we have the status quo. We will get enforcement right around the time icicles glitter on the roof of hell.

And with NAFTA, Mexico will work with us to clean up the border. Without NAFTA we have to clean it up anyway; Mexico has no reason to help; and the maquiladora program—which NAFTA eliminates—will keep on pumping out the garbage.

NAFTA is also a big step forward for labor standards. The abuses are real. I have seen them. I have talked to Mexican child workers. But the abuses are there now. Without NAFTA we can do nothing about them. The labor side agreement tackles the worst abuses—child labor, evasion of the minimum wage, unsafe worksites. And if NAFTA passes, Mexico has pledged to tie its minimum wage to increases in productivity. On labor too, we set a precedent and improve the status quo.

NAFTA AS PART OF LONG-TERM ECONOMIC STRATEGY

Altogether, NAFTA enlarges our home market from 270 to 360 million consumers. It promotes U.S. exports in high technology, manufacturing, services, and agriculture. With the side agreements it makes Mexico meet high standards of environmental protection and labor rights. And as Clyde Prestowitz says, NAFTA gives us some control over movements of capital by allowing us:

> * * * to do in Mexico what Japan has done in Thailand. There, Japanese companies have invested and assembled components shipped from Japan into products for export to the world. Japan thereby runs a trade surplus with Thailand, while both their production and exports increase. Under NAFTA, United States firms should be able to do the same in Mexico.

Likewise, the EC brought Spain, Portugal, and Greece into the Community when their wages were one-third of Germany's. Since then, wages in both Germany and southern Europe have gone up. The same will happen here, when we bring in Mexico.

WAGES AS PART OF INVESTMENT STRATEGY

NAFTA opponents think otherwise. They say we cannot compete with low-wage workers. Every job NAFTA creates in Mexico will come right out of the United States.

Well, Mexico does have low wages. And wage rates are part of investment decisions. But so are many other things: the cost of health care; the crime rate; literacy and schools; taxes the frequency of power outages; the cost of transport; the quality of telecommunications; the productivity of the work force.

If a company only cares about wages, it can go to Mexico today. Of course, if it only cares about wages it probably will not go to Mexico. Lots of countries have much lower wages. It can move farther south to Bolivia, across the gulf to Haiti, down the Pacific to Peru, or to any of dozens of other countries.

But they are moving now, and NAFTA lets us control the process, and keep high-technology, high-skill, high-wage jobs in the United States. And of course, investment decisions in the real world are much more complex than NAFTA opponents admit.

Here is an example. Mexican auto jobs pay about a tenth of American auto jobs. If pay were the only issue in auto plant decisions, NAFTA would be terrible for American autoworkers.

But pay is not the only issue. The Office of Technology Assessment compared the cost of making cars for the U.S. market. They counted in not just wages but health benefits, productivity, transport costs, and other factors. They found that when Ford wants to sell a car in the United States, it costs $8,770 to make it here and $9,180 to make it in Mexico. thus, for every car Ford makes in Mexico and sells here, Ford loses $410 in profits.

That is a good reason to make cars here. It is why GM will make the 1995 Chevy Cavalier in Lansing, not Mexico. NAFTA also abolishes laws forcing companies that sell cars in Mexico to make them in Mexico. Together, that is why the guy on the line at Ford—and every American autoworker—is a big winner with NAFTA. NAFTA makes it more, not less, attractive to invest in America.

The same is true in other industries.

Quality Coil moved to Mexico from Connecticut in 1989. Four years later it moved right back, because as its CEO said, one employee in Connecticut produces as much as three in Juarez.

McIlhenny moved a plant from Mexico to Louisiana, where it can fill bottles of Tabasco four times as fast.

A Mexican maker of pizzas and pasta, Pasta Exclusivos de Mexico, just decided to move from Mexico City to Texas. Why? Late delivery by Mexican suppliers, high absenteeism and worker turnover, bureaucracy, unpredictable blackouts and power surges. Above all, productivity.

Six Americans on an automated line can make 15,000 pizzas an hour, as much as 35 Mexican workers make in a whole day. Pasta Exclusivos will pay the Texans who work on that line $7 an hour, almost five times as much as Mexico City's $1.50 an hour workers. But, as Gabriel Cohen, the company's chief financial officer, says, "Labor costs are a relatively insignificant part of the picture—about 2 percent of all outlays."

TODAY'S ONE-WAY FREE TRADE AGREEMENT

That is how the real world works. But even if you could ignore productivity, absenteeism, government red tape, power failures, and transport costs, saying that rejecting NAFTA will keep jobs here makes no sense. Why is that? Because the U.S. tariff NAFTA will eliminate makes so little difference.

Our tariff on Mexican goods averages 4 percent. A Mexican-made microwave oven that costs $100 today will cost $96.15 once we abolish the tariff. The buyer saves $3.85. If he has two kids, he can use it to buy them each an ice cream cone. It is hardly a lot of money.

Of course, the oven is probably a maquiladora product. That means it already comes duty-free. It will not cost a penny less if NAFTA passes. Today, at least 30 percent of Mexican goods come in duty-free through the maquiladoras and the Generalized System of Preferences. We're already close to free trade from Mexico.

By contrast, Mexico's tariff wall averages 10 percent. And on the far side of the wall is a minefield of quotas, investment restrictions, and other nontariff trade barriers. NAFTA gets rid of them all. NAFTA makes our one-way free-trade agreement a two-way free-trade agreement.

NAFTA AND LATIN AMERICA

Now let us look at what NAFTA means for our ability to remain the leader of our hemisphere and the world.

Every Latin American nation is watching this vote. If we vote "yes," we act in the tradition of Franklin Roosevelt's good neighbor policy, John Kennedy's Alliance for Progress, and Jimmy Carter's crusade for human rights. We create jobs and prosperity in the United States, Mexico, and ultimately the whole hemisphere.

What will they think if we vote "no"? At the very least they will conclude—rightly—that their economic future does not lie with the United States. As Octavio Paz said 10 days ago, if we reject NAFTA:

> It would not be impossible for Mexico to look toward Japan or the European Community for trade and investment. More important, rejection would unleash a wave of anti-U.S. sentiment that would quickly spread to the rest of Latin America.

NAFTA AND ASIA

Our decision is just as important in Asia. Out in Seattle, President Clinton is doing everything he can to open the fastest-growing markets in the world to American goods. He met ASEAN leaders to make sure we are in on Southeast Asia's economic boom.

Today he will meet Prime Minister Hosokawa of Japan and President Jiang Zemin of China to cut our two biggest trade deficits and open the world's second and fifth largest markets.

What does our debate mean for these talks? The President, since he is an optimistic man, puts it this way:

> [NAFTA passage] will give me enormous leverage when I * * * meet with the General Secretary of the People's Republic of China, when I go out to meet with the Prime Minister of Japan and all the other leaders of Asia, when I try to convince the Europeans that it's time for a world-wide trade agreement.

But if we turn him down, he goes to these meetings a shrunken, diminished leader. How can he get agreements from Japan and China, if he cannot get one from his own party?

NAFTA AND THE GATT

The consequences would go well beyond Latin America and Asia. They would reach around the world. We have twenty-five days to finish the Uruguay Round of the GATT. If we succeed we could raise world economic production by $270 billion a year. We could raise American GDP by $65 billion a year by 2003, and $130 billion by 2013.

A successful round would let us export $6 billion more a year in farm products; protect pharmaceuticals, movies, recordings, and software programs from pirates; open new markets to American banks and insurers; and cut tariffs, abolish quotas, and eliminate other barriers to trade around the world.

But if the round is to succeed, the countries with the most egregious trade barriers have to give a lot. Japan's tariffs on wood products. The European Community's agricultural export subsidies and broadcast quotas. The developing countries with no pharmaceutical patent laws, rampant copyright piracy, and restrictions on services. They will not do it if they think President Clinton cannot deliver the agreement in Congress.

And that is just what they will conclude if we reject NAFTA. They will never open their markets, give up their farm subsidies, or protect our intellectual property works if they believe President Clinton can't get Congress to approve a deal anyway.

NAFTA AND DEMOCRATS

Finally, for those of us who are Democrats, let us put trade policy aside for a moment and think about what this vote means for our party.

There can be no question of renegotiating this agreement. Mexico will not take a slap in the face—Mexico will not take wild claims that it is a Stalinist dictatorship or an international economic basket case—and come back for more. There is no question of another NAFTA or a "North American Common Market." Rejecting NAFTA is rejecting free trade with Mexico. Mexico knows that and will look for its future elsewhere. So our choice today is a permanent choice.

If we kill NAFTA today—if we repudiate the legacy of Roosevelt, Kennedy, and Carter—we will make sure our first President in over a decade fails as an international leader. We reveal ourselves as isolationists and protectionists.

And we prove our party to be incapable of governing.

If we reject NAFTA, we show ourselves a party with no discipline; a congressional party, not a national party; a party of permanent opposition, which cannot work even with one of its own in the White House. Why in that case would the American people turn to us again in 1996? Or ever?

That is for Democrats. But for all of us, the questions this debate poses, the questions we must answer today, are very basic and very clear.

We can cast a vote for fear. We can vote the agreement down and stick with the status quo. And in the long

run, as Vice President GORE said in his debate with Ross Perot, we can close our market and return to the world of the Smoot-Hawley tariff.

Or we can cast a vote for hope, for new frontiers and opportunities, for jobs, and for NAFTA.

If you honestly think—like Perot and Pat Buchanan—that we can prosper by closing our market at home, you must oppose NAFTA.

But if you believe we can only prosper by exporting, opening markets abroad, and creating new jobs, you must vote for NAFTA.

We who think the status quo is not good enough—we who do not want to go back to Smoot-Hawley—believe more exports, stronger environmental protection, higher labor standards, a larger market, and more jobs are good for America. And thus we conclude that NAFTA makes us better off than we are today.

I think fear makes a poor and errant guide. I think Benjamin Franklin was right when he said, "No nation was ever ruined by trade."

Mr. President, reason is a better guide. Hope is a better guide. America can compete. America can lead. The right vote on NAFTA is "yes."

The PRESIDING OFFICER. The Senator from Michigan is recognized and has by the prior agreement 33 minutes.

Mr. RIEGLE. I thank the Chair.

Mr. President, there are a lot of things to respond to here today. I spoke earlier this morning in a very limited time period so I was not able to cover many points I will now attempt to cover in terms of responding to some of the issues raised by the Senator from Montana, and others, earlier in the day.

Let me start by saying again that the NAFTA that is before us is terribly threatening to this country and is going to do great damage to the job base of our country and to our economic future. When you damage the job base you damage people. You damage their lives, their hope for the future. And you start to tear apart the social order and the social fabric of the country.

That is really what is involved here. This is a very dangerous turn of events, and it is not coming in a vacuum. We have a lot of other problems in America today. We have drug problems. We have problems of persistent poverty in many areas of the country. This has gotten much worse under trickle down economics under Raeganomics. You have the downsizing in defense industries. You have major companies in America downsizing and shaving benefits. You have tremendous job-market problems anyway. There are many economic riptides going through our system today.

And you have tremendous economic problems around the world. You have very high unemployment in Europe today. Everyone who is talking about the virtues of the European Community is omitting the fact that in the major countries of Europe unemployment today is well over 10 percent. There is a lot of urban unrest and violence in those places, in part because of high unemployment, and the problem is getting worse, not better.

So to bring NAFTA into the picture now where we have all these other difficulties in our own country I think puts the Nation at real risk.

Unfortunately, this is a very insulated environment around here. The Members of the Senate spend a lot of time talking with editorial writers and talking with some of the big business, big economic interests people and spokespeople and so this is a kind of group-think process that goes on and everybody basically ends up saying the same thing to one another.

So when the word gets implanted and the propaganda campaign builds up to the point that everybody is saying NAFTA is a wonderful thing, in here within the Beltway so many of the elite, the political, economic, and so-called cultural elite, keep repeating the same thing to one another. It is sort of like lemmings. After a while it takes on a force of its own because if you speak a contrary view then, first of all, you are not part of the group thought process of that elite but, second, you cannot really penetrate in any meaningful way their thinking because they are immune to argument or evidence.

It has become a matter of reinforcement within that group of a point of view that they have developed, and they do not want to think differently. They do not want to hear facts that challenge the suppositions. Frankly, they, for the most part, are ignoring the terrible economic difficulties in our country.

I talked with two people the other day who are for NAFTA. These are two individuals who are doing very well in our society, making several hundred thousands of dollars a year. In the same conversation, they were complaining about the crime problems here in America. They live here in the Washington area. They do not feel they can go out of their apartments or condominiums safely during the day or at night to walk their dogs or to run or jog or even to walk to a store to buy something, because of their apprehension about the crime problem.

And yet, they and many others have a hard time seeing the cross-relationship between the fact that if you have persistent high unemployment and very little opportunity for somebody to break in to the economic system to get a job and climb the economic ladder the way people could in this country 20, 10, or 30 years ago, you are going to help seed crime, then you are going to create an environment where there is an antisocial attitude that takes hold, there is not a view that everybody is important. And we are not going to have enough jobs to go around. It is very easy for a culture of crime to take hold, partly driven by the economic deprivation, but also by the fact that there is a breakdown in any sense of social enfranchisement, of a social connection one to the other.

If a society as a whole and the Government is, in effect, saying that unemployed workers do not matter, what is in that message that goes out to people in the country who are dispossessed, who have low opportunity, who may feel desperate in their own ways, who have not had the advantages that others of us have had? What is the message to them?

If the message is that that is all right, that is how the society works, grab what you can—if they see the corporate elite grabbing what they can, if they see Members of the House of Representatives being able to be, in a sense, bought and paid for with a vote for NAFTA by grabbing what they can, then why is not the message out to the society as a whole: Grab what you can.

Well, of course, that is the message. But it is a very destructive message and it is a message that is taking this country downhill.

And so this is not just a one-dimensional issue. This is an issue about our economic future. It is about how people are able to live, about the fabric of our society, whether we care about whether people have job opportunities and whether people can have a decent life, whether they have a chance to form families.

Today more and more of our college graduates who go through college and amass excellent academic records and a good record of part-time work experience and other extracurricular activities, are finding when they circulate their résumés, that they cannot get any job. Many of them, after circulating their résumés several months after graduating, are generally giving up and going back and moving in with their mothers and dads, which makes no one happy.

I have talked to any number of people who have lost their jobs in the financial sector, in the automotive sector, in the defense production sector, high-tech, at large firms, medium-size, small-size firms, who have not been able to find alternative work and are drifting out there today, unemployed in many cases, for many months and even years.

And oftentimes, when they finally find a replacement job, if they were earning $30,000, maybe the replacement job pays $15,000 or $12,000 a year.

So, as I said earlier, I am running into more and more cases in Michigan where, in families that are intact, both the mother and the father are each working at as many as two or even

three jobs, and so they are never home. They are working two shifts each day, sometimes at a Kmart, sometimes at a Burger King, maybe at or just above the minimum wage.

But by the time you pay your Social Security taxes and other taxes and you pay your automobile insurance, probably on a second- or third-hand car, and you buy gas to get to work and you buy clothes, even if they are used clothes, you do not have enough money left after those kinds of low wages, even in three or four or five jobs in one family, to provide a decent living standard for that family.

Now maybe that works in Mexico, because we know wages are very low down there and the living standard is very low down there. But it does not work here in America.

What it does is it steals the American dream from people and that is what has been happening. That is why there is so much disillusionment in the society. That is why our political system is in turmoil. That is why we had a third-party candidate run and amass nearly 20 percent of the vote in the last national election. That is why the President, when he was elected, got only 43 percent of the vote. That is one manifestation, and rising violence and crime is another manifestation.

Just as many voters decide it is not even worth voting. And I see why they would feel that way when they watch this debate coming out of this Chamber today, listening to all of this economic elitism being peddled here as to how wonderful this thing is going to be.

People out across the country have already seen how NAFTA works because we have had, in effect, a sort of NAFTA for many years now in the maquiladora program. We have shipped all kinds of work down to Mexico. Plants all over Michigan have closed. I have talked to the workers in plants that have closed and moved to Mexico.

I say to the Senator from California, I visited a plant recently in a town just outside of Detroit, principally a work force of women. They were making radiator hoses. That company just closed and they moved the jobs down to Mexico. They had 2 weeks to go before the plant was actually going to close. I went out there to talk to the women who were working there. They were told, by the way, by the person managing the company, that if they came out to talk to me about it, as a U.S. Senator on the sidewalk, they ran the risk of not being able to stay on and finish the last 2 weeks of work before the plant did close. That was the intimidation to keep them from talking to me. Many did come out and talk to me, despite that fact. Most of them are single, heads of households. They are just scraping by, so they may have 2 or 3 children at home, trying to hold their lives together, and they have no alternative work.

Now that plant is closed. There is no other work for them to do. They cannot get an income.

I mean, the notion that they can provide properly for their children or have health care, it is out of the question.

I talked to some women in Owosso, MI the other day. Their plant closed about 3 years ago. Their stories would break your heart. We sat around a coffee table in a restaurant and talked for a while.

Here is what they told me. They told me that they had been so poverty stricken since their plant closed and no replacement work, that they buy virtually all their clothes at yard sales. They virtually buy no new clothes, because they cannot afford even to go to low-cost outlets, like Kmart or Sears or Penney's to buy something because they just cannot afford it. They just do not have the income. They have too many basic necessities that they have to pay for to keep food on the table and the utility bills in the winter time, and so forth. So they are buying clothing that has been used two or three times before, they are buying used shoes.

We hear this talk about us selling more cars to Mexican workers. We need to sell more cars to American workers. We need to have workers in America that can afford to buy cars.

I asked them around the table, I said, "Can you imagine in your lifetime ever being able to buy a new car built here in this country?" And they could not even imagine it. I mean, they sort of laughed out loud around the table, sort of a cynical laugh, because it is so far beyond any possible reach that they now see; that it is out of the question. It is all they can do to scrape together enough money to buy a car that has maybe been owned by four or five other people and has 125,000 miles on it, an old wreck. And that may be all they can afford.

So the notion of some day being able to buy a new car is out of the question.

But when I hear the Senator from Montana talk about the fact that these wage differentials do not mean anything, then why are we now shipping billions of dollars worth of work down to the maquiladora areas to have the work processed and then bring it back into the United States? Of course it is being done to take advantage of the low labor rates and the low environmental standards and the low workplace standards.

But what this does, if NAFTA passes, as it is about to, it is going to validate that and it is going to say it is fine to do that and it is going to put every other firm in America under terrible pressure to follow that example of going down and taking advantage of those low-cost Mexican wage earners and knock the worker here in America out of work. But also, to then go to other workers in America in firms where they are now earning low wages and say, "Look, if you do not accept even lower wages, or if you do not accept a reduction in what meager benefits you have now been getting, we are going to close this plant and move to Mexico." And it is going to downgrade the wages of the workers that are still left here in America.

Mrs. BOXER. Will the Senator yield for just a very brief moment?

Mr. RIEGLE. Yes, of course.

Mrs. BOXER. I want to thank the Senator from Michigan because he puts all this in plain English. The bottom line is there is going to be downward pressure on wages in terms of the people who are lucky enough to keep their jobs.

Mr. RIEGLE. That is right.

Mrs. BOXER. Because the threat will be there: We are going to go to Mexico. And this treaty is an open invitation. And the other point the Senator makes so eloquently is there is nothing new about NAFTA. People stand up and say, "This is new, let us not be afraid, it is bright"—it is as old as the hills. It is exploitation of workers. It has been going on forever.

What would be new——

Mr. RIEGLE. Exactly.

Mrs. BOXER. Is if we, as proud Americans, said: Yes, we want you to come into a common market and here are the markers you have to meet for workplace standards and safety and human rights and democracy. And then we will have a common market we can be proud of.

So I want to thank the Senator. The Senator is going to be missed here. But at least we have you for another year and a half, and am I glad we have you for this debate.

I yield.

Mr. RIEGLE. I thank the Senator for her personal comments and also for her observations.

May I ask the Chair how much time remains of the time allocated to me?

The PRESIDING OFFICER. The Senator has 20 minutes left.

Mr. RIEGLE. I must say I am very grateful to my colleague from Montana for speaking for 33 minutes, because it gives me the chance to do exactly that, to present the other side. So I am gratified, really, beyond words for that.

I want to now illuminate another part of this problem. It has not gotten talked about much because it is sort of the dirty little secret that has been swept under the rug in the NAFTA debate and it is one of the problems the elite really choke on because the facts are so difficult for them to deal with.

We have a huge drug problem in America. We have a huge drug problem with drugs coming from Mexico into America. It is going to get a lot worse. The drug problem in this country is going to get a lot worse when we go into this kind of open market arrangement under NAFTA. A number of very important, authoritative articles have

been written in national news publications that lay this out. I am just going to read a little bit from one to put these facts on the record. This is from the New York Times.

The New York Times is passionately for the NAFTA. They have propagandized for it, I think shamelessly, in an awful lot of what they have written. But the drug problem is so serious that even they have had to write a story about the threat that it poses to our country.

This is an article that ran this year, on May 24. Here is the headline on that New York Times story, which I have previously had printed in the RECORD. It says, "Free Trade Treaty May Widen Traffic In Drugs, U.S. Says," the treaty being NAFTA. This is what it says, quoting now directly.

Cocaine smugglers working with Colombian drug cartels are starting to set up factories, warehouses and trucking companies in Mexico to exploit the flood of cross-border commerce expected under the North American Free Trade Agreement, United States intelligence and law-enforcement officials say.

The Mexican smugglers are buying and setting up the companies "as fronts for drug trafficking," said a report written by an intelligence officer at the United States Embassy in Mexico City. The phenomenon was confirmed by a senior United States official who oversees enforcement of anti-drug laws and who spoke on condition that he not be named.

The cocaine traffickers "intend to maximize their legitimate business enterprises within the auspices of the new U.S.-Mexico free trade agreement," the report said. The report was released under the Freedom of Information Act to the National Security Archive, a private research group in Washington that seeks to declassify Government documents.

TAKING ADVANTAGE OF ADVANTAGE

The document said traffickers planned to invest in trucking and warehousing businesses in Mexico as conduits for drug shipments. They have also started to buy manufacturing and assembly plants known as maquiladoras as fronts for drug shipments, the senior United States official said.

I am going to jump a little further in the article:

A trade expert and two former United States trade negotiators said that while United States and Mexican officials had foreseen the possibility that drug traffickers would take advantage of the trade pact, the problem was not raised during the negotiations. In fact, the pact does not address law enforcement issues related to trade.

WHY IT WASN'T TALKED ABOUT

"This was in the 'too hot to handle' category," said Gary Hufbauer, a senior fellow at the Institute for International Economics and co-author of a favorable book about the trade pact. "It's a painfully obvious problem. The huge increase in traffic will provide a huge cover for drug traffickers."

It goes on at great length here and, as I say, I put it in the RECORD just 2 days ago.

Why would the New York Times, citing U.S. intelligence reports and other unnamed but clearly high-ranking officials they talked to to confirm this, print this story about the severe danger of a massive increase of drugs into the United States under NAFTA? Because that is precisely what is going to happen. And that is what is happening.

The law enforcement system in Mexico is virtually nonexistent. Corruption there is rampant, everybody knows that, from the elections, right down through the court systems, to bribing local officials. It is just commonplace. It is well known. It has been documented. Everybody who studies the problem admits that problem. They say it is going to get better. It has not gotten better to any appreciable degree over a long period of time, but that is the problem we face.

Understand that over half the cocaine coming into the United States today comes through Mexico. Have you heard any of the pro-NAFTA people make that point? Has a single one talked about it? Or what we might do about it? Or been honest enough to admit that aspect of the threat to our country? I have not heard one word said about it off that side.

Why? Because they do not dare talk about it. I have put into the RECORD other major articles from the Houston Chronicle, from other major national newspapers that have run front-page stories on the problem of just drug trafficking alone, and the explosion in the volume of drugs coming across the border from Mexico.

How is it going to work? A drug smuggler, as this article points out, comes in and buys a different business in Mexico. It can be anything, making tires or axles or any kind of a product. They load them up, put them in the trucks, bring them on up here.

There is a huge volume of trucks going to be coming across the Mexican border into United States, and that is a very easy way to get the drugs in here. We cannot possibly examine all of these trucks. We are not doing it now. That is why over half the cocaine coming into the country now is coming from Mexico. But you open the floodgates and you have given this open invitation to the Colombian drug lords and others to move to Mexico, which our own intelligence reports tell us they are doing, because we are opening the doors wide open for this to happen.

Is that smart? No, that is stupid. But we are doing it. Why? Because some people are going to make billions and billions of dollars under the NAFTA. They are going to do it by moving plants to Mexico, as we have seen in the past, to take advantage of the low-cost labor and low environmental standards and the absence of environmental protections and workplace protections.

The same thing in the area of pesticides. There are pesticides that we have banned here in the United States that are in use in Mexico. You better get ready for it because you are going to start eating those pesticides and so are your kids, once the Mexican produce starts coming across the border in the expanded volumes in which it comes in here. You are not even going to know about it. You are not going to know where this produce comes from. You are not going to know whether you are eating DDT or feeding it to your kids, but that is going to be happening. Why? Because somebody is going to be making an enormous private profit by bringing it in off low-cost labor into this market and the buyer beware. In effect, the buyer be damned. That is what is going to happen.

We just had an article 2 days ago on diseased cattle coming in. Because they have major problems in that area in Mexico and they are infecting, now, the herds of cattle in Texas, and the cattle people in Texas are all up in arms about it. We are all eating that hamburger and all eating the other products that are coming out of there. But somebody is making a lot of money.

I will tell you who is not going to be making a lot of money, and that is going to be the workers in America who lose their jobs and have their jobs go to Mexico. Those workers who are out of work now, that I described, in Owosso or the other areas of Michigan, who have had their jobs go to Mexico, they are in desperate trouble.

Do you know what? They think this country of ours does not care about them. Do you know what? This country does not show any sign of caring about them. We talk about, well, we are going to help the displaced workers. There is precious little here to help the displaced workers. One of the great ironies is that the people in the House of Representatives who voted to pass the NAFTA are, by and large, the very same people who voted against a job stimulus program for workers in this country just a few months ago.

So they are happy to vote for jobs for Mexico and to vote against jobs for America. So we have more and more people out of work, working part time, desperately needing work and income, and they are being told, "Sorry, we have nothing for you. We cannot help you." But we can have a jobs program for Mexico.

So we are going to have 60 million Mexican workers, working at a tiny fraction of what we earn, coming now into the U.S. labor force. They are going to compete with every other worker in America. They are going to compete for what work is available and they are going to compete on the basis of wages.

We know from all that has been said that their productivity down there, particularly in their manufacturing operations, is very nearly as high as ours, but at one-seventh or maybe even one-

ninth the wage levels we are earning at now.

So when the Senator from Montana says wage levels do not matter, then why have over 500 companies gone down to the maquiladora areas to set up manufacturing, a large part of which turns around and comes back into the United States? If low labor rates are not worth it, then why have they done it? Are they fools? Of course they are not fools. They are making billions of dollars doing it, and they are intimidating workers in this country. This is the final outrage of trickle-down economics. This is the revenge of Reaganomics. It is the revenge of George Bush leaving this NAFTA package here and convincing, unfortunately, this administration to take and ram it on through.

There has been more to it than that. There is a ton of money that has been spent on taking and lobbying this bill through the Congress. I put in the RECORD before articles out of the Wall Street Journal and out of the National Journal. Here is the one out of the Wall Street Journal earlier this year. Headline: "Mexico Mounts a Massive Lobbying Campaign to Sell North American Trade Accord in the United States."

Critics of the North American Free Trade Agreement charge that under the trade accord, Mexico will snatch U.S. jobs, but Mexico has already set off the boom in at least one U.S. industry: Lobbying.

This is the Wall Street Journal—

Mexico is bankrolling a nationwide campaign to sell the trade accord to Americans. Crafting and carrying out this campaign is an impressive lineup of political heavyweights, including former U.S. Trade Representative William Brock; Toney Anaya and Jerry Apodaca, past governors of New Mexico; former Commerce Department trade chief Robert Herzstein; and retired Navy Secretary Edward Hidalgo.

And the list goes on.

What the Mexicans did in one specific case, they came here to the United States to our own former Trade Ambassador, William Brock. They hired him; the Mexican Government hired him to change uniforms, go to work for them—our former top trade official—and help ram this thing through the Congress. Do you know how much they are paying him? They are paying him $30,000. You say, "$30,000 a year?" No, $30,000 a month; $360,000 a year. That is more than we pay the President of the United States. And he is one of dozens—this article lists them, Republican and Democratic lobbyists downtown here. Every single one has been hired by the Mexican Government to the tune of tens of millions of dollars to propagandize this thing through here. And all of the propaganda that they have been putting out for months I am hearing in all of these speeches by the pro-NAFTA supporters over the last few hours and days here in the United States Senate.

"The wage levels don't matter." Baloney, that is what this whole thing is about. Of course the wage levels matter. If the wage levels did not matter, this would not even be talked about. We would not have all these hundreds of thousands of jobs down in the maquiladora areas.

The Japanese and others cannot wait for this to happen. Do you know under NAFTA, Japan can come into Mexico, they can set up a plant—and they are buying all kinds of facilities down there now. They can ship in half the parts—all the good stuff, the engines and all of the sophisticated equipment into Mexico from Japan. They can add the other 50 percent of the building of the car with Mexican labor, some of it through subsidiary companies in Mexico that are also owned by Japanese firms. As long as 50 percent of it is built by the Mexicans, they can then send it duty free into the United States and not have $1 of value in that car of anything from the United States or $1 of labor from a single worker in the United States. It can be half Japanese, half Mexican and come storming right on in here. You think they are not going to do that? Of course they are going to do that.

Why would we ever enter into an agreement like that? I can understand why George Bush and Carla Hills would do it, because I know what their philosophy was and their orientation was. It was anti-worker. They had an economic program for every country in the world except this one, and that is why they were thrown out.

This is a jobs program for Mexico and, my Lord, we need a jobs program for America. The fact that I said earlier, we have over 500,000 homeless veterans alone in this country right now who cannot sustain themselves. We ought to have a program to let them go to work, for crying out loud. They were important enough to us earlier that we asked them to wear the uniform of this country and defend this country, and they went off and did it at the risk of their own lives and many of them carry wounds from the wars they served in, many in Desert Storm.

Now they are back and they cannot find work and they are out homeless living under bridges, in doorways and in cardboard boxes. And yet, we come in here now with a jobs program for Mexico.

I want Mexico to do well, but our first obligation ought to be to have our people do well. What about people in America? I thought they elected us; I did not think the Mexicans elected us. I thought the Americans elected us. We ought to come in here and go to bat for our people first. When we see to it that we have enough jobs to go around for our people, then let us see what we can do about helping create jobs some other place. But you do not take and steal from your own people to give to somebody else. You do not tell somebody in America, "Sorry, you don't matter; you don't count; we don't hear your problem; we're too busy to help you because we have to go down south of the border, or somewhere else around the world, and help somebody else."

I am sick of that. So is the country. And this elitism that permeates this debate, all these wonderful gossamer visions about jobs in the future. People have to eat today, they have to eat tonight, they have to feed their kids tonight. We have people by the thousands and hundreds of thousands in this country, families that are out living in cars, for crying out loud, because they do not have the money to put a roof over their head and they are out living as roustabouts to go here and there to try to find a little work here, a little work there.

In Detroit, MI, I can take you to street corner after street corner, as I can here, where people are holding up signs that say, "We'll work for food."

We are not talking about back in the Depression. We are talking about today in November 1993, Americans who need work. And NAFTA turns its back on them in order to generate private profit for the economic elites. This is Wall Street versus Main Street.

It is as clear as a bell, and it is going to devastate not just our job base but it is going to hurt a large part of small business in this country. When the big firms go, the little firms die as well. They do not have the resources to pack and go down to Mexico and take advantage of cheap labor and low standards in Mexico. And they are going to get snuffed out here in this country. It is the one job engine we have had, that being small business. They are not helped by this and they are smart enough to know it.

But we have a giveaway mentality inside the beltway and we want to help everybody everywhere except our own people. The worse the problems become, the harder of hearing we get. The more the cries rise, the less we seem to be able to understand it and do anything about it.

Well, there is going to be some retribution. You wait and see. People are not going to accept having their Government turn their back on their basic human needs and on their family needs, and that is what is happening here.

So the college professors, the academic elites, the editorial board elites, the economic elites that are living off the fat of the land and who are out of the line of fire willing to feed the working class into the line of fire, you may win a temporary victory now, but a day is coming where the working people and the little people of this country are going to take power back. When they take it back, we are going to change the way these kinds of decisions are made because people are being ruthlessly exploited. They are

being exploited today and they are going to be exploited far worse under NAFTA. That is what it is all about. That is why it was Ronald Reagan's idea in the first place.

Yes, and it probably will destroy what is left of the labor movement in this country, and that will be a shame because the labor movement in this country helped us build the middle class, and the middle class has made America what it is. It has enabled us to be a melting pot.

Somebody talked the other day about isolationism. We better worry about isolationism here in the United States, of isolating our own people, of isolating the underclass, of isolating black citizens in this country who face unconscionably high rates of unemployment. We talk about holding families together. You try to hold a family together if you cannot find a job. Give people a job and you will start seeing families holding themselves together.

I saw a guy the other day in Michigan on a motorcycle. He was down to the pocket change in his pants at a job training center. He had a whole armload of certificates showing how accomplished he was in machine tool work. He told me how he had had to leave his family to go out on the road, desperate to find work, and he was down literally to the little bit of gas that was left in the gas tank in the motorcycle and change in his pockets. As he was showing me the certificates of about 10 or 15 years of competent work and achievement, he began to cry, and the tears were coming down his face, over the fact he had had to leave his family and leave his children to go on the road like this. There is that kind of a demeaning experience in this country, a real, live, breathing person, and you can multiply him by the millions.

Now, how do we get them in here? How do we get their voice heard? Is there anybody in here who cares about them enough to spend 5 cents to help them? I am not talking about spending the money to help the Mexicans and to get their economy going and to rev up their job situation. I am talking about really getting at the hardcore unemployment in the United States.

What if we just had a program to start with the veterans? Are people here who are for NAFTA willing to spend the money if we give it to the private sector to hire every unemployed veteran in the United States, to give them the dignity of work and the chance to be able to sustain themselves and to have an identity again?

No, we are not willing to do that because we are a bunch of hypocrites. We are not willing to do it.

We went into the situation the other day on the gulf war syndrome. We have thousands upon thousands of sick veterans from Desert Storm. I think part of it is chemical poisoning. Can we get the Defense Department to acknowledge the problem? No, they cannot see the problem. I asked them if they would designate at least a code under the veterans benefit program, gulf war syndrome, so they would be eligible at least to be able to be covered so they would not end up being homeless as they try to pay for health care. So far they have refused to do that.

That is how we turn away from our own people. That is what is destroying people's faith in Government and in democracy itself. You wonder why people are not voting. This is why they are not voting. Oh, I know the elite are voting because they have this thing wired, and when they cannot wire it on the inside, then they hire all these lobbyists that the Wall Street Journal talks about and the National Journal talks about to come in and steamroller this thing through. If this does not work—and by the way, that had failed up until a few days ago—you know what they do? They take out the checkbook of the American taxpayer, they go over to the House of Representatives and they shop around. They say to this Member of Congress or that Member of Congress, what does it take? We know you are against NAFTA and we need you to vote for NAFTA. You want an aircraft carrier? We will work that out. You need a bridge here, you need this, you need that? It has all been reported out, so then you go and buy the votes. You wonder why people are cynical. They are cynical because the Government is turning its back on the working people of this country, and NAFTA is about the most dramatic example of that that anyone could ever hope to see.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Iowa is recognized.

Mr. GRASSLEY. I ask unanimous consent to speak 22 minutes on the Clean Air Act.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I object. We are here in morning business for the discussion of the North American Free-Trade Agreement. I wonder if there are other Senators here who wish to speak on the North American Free-Trade Agreement.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Point of information. Have we been extended time between the 20 hours of time for debate on NAFTA?

The PRESIDING OFFICER. That is what is happening by consent.

Mr. GRAMM. Will the Senator yield me 5 minutes?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I am not going to get into a debate with our distinguished colleague from Michigan. I try to remember there is not much use trying to convince people who are not going to be convinced. But I cannot be walking through the Chamber and hear someone call a commitment to trade a betrayal of the American worker and not respond to that.

I remind my colleagues of several facts. First, from the colonial period until today, whenever America has engaged in any trade activities, we have always been trading with countries where wages have been lower than in our own country, and I hope that this will always be the case. As long as we maintain the greatest system of opportunity in the history of the world, as long as we are committed to science and technology in the future, I believe that this will always be the case.

Second, I would like to remind my colleagues and anyone watching this debate, despite the fact there is a lot of passion in opposition to NAFTA, despite the fact that it is very easy to frighten people about NAFTA and about trade, the bottom line is that no one has presented any evidence whatsoever to substantiate the claim that free-trade agreements denude countries of jobs or drive down wages.

When I spoke earlier today, I pointed out that no one in this whole debate has presented a single case where a country by entering into an agreement to have free trade with another country or group of countries or by entering into an agreement to mutually lower tariffs, in the 5,000 years of recorded history, has seen itself lose jobs or have declining wages.

Second, it is not as if free trade has never happened before, that there have never been free-trade agreements before. The European Economic Community is decades old. When Greece came into the European Economic Community, when Portugal came into the European Economic Community, when Spain came into the European Economic Community, countries like Germany had very high wages, six times as high as those in Portugal. In 1986, when Portugal came into the European Economic Community, the arguments of our colleagues who oppose this agreement would lead you to think that all the jobs ran off and left Germany and that wages collapsed there.

It did not happen. What happened was that wages in Portugal went up by over 200 percent between 1986 and 1992, and yet wages in Germany more than doubled. In the same period, wages in the United States went up by about 20 percent. I am sure we have colleagues who are thankful every day that we did not join the European Economic Community; our wages might have doubled like Germany's.

My point is this. You can have all the fears you want. You can raise all the

objections you want. But you cannot have all the facts you want. Why NAFTA is going to win in the Senate, why it won in the House, despite all of the organized efforts of so many groups to defeat it, is because history is on the side of NAFTA.

Our country is the most powerful country in the history of the world. We have literally remade the world in our own image in very many ways since World War II. But we are not powerful enough to stop the course of history; the course of history is clearly moving in the direction of trade. There is only one thing that could shove us off in the ditch. There is only one thing that could take away our position of world leadership. That would be if we tried to build a wall around America and go hide under a rock somewhere. That is something we must not do.

The free-trade agreement with Mexico is a logical extension of American trade policy. If we do not have confidence that we can, with an enlightened Government policy and with an effort by our workers and by our businesses, outproduce Mexico, then we have a great lack of self-confidence in our Nation and in our people. I have no such lack of self-confidence. I am absolutely convinced that this trade agreement is going to benefit us as all trade agreements have always benefited any group or any nation that has entered into them.

Finally, I just remarked how the world changes. When Pericles in his great funeral oration talked about the greatness of Athens, I think it is very instructive that he spoke about trade. He said, "because of the greatness of our city, goods are brought here from all over the world and we consume them as freely as they are consumed in the countries where they are produced." That was the greatness of Athens. It is the greatness of America. Trade and free enterprise and democracy built America. Trade tore down the Berlin Wall and won the cold war. To the suggestion that trade is a betrayal of the American worker, I say trade is an affirmation of the American worker. It is the ultimate vote of confidence in the American worker.

A final point that remarkably carries no weight in debate, but it ought to carry weight is this. If I am a free person, what right does the Government have to tell me I cannot buy without restriction a good that is not illegal to consume, that I cannot buy it because it is produced in another country?

Is that not an abridgment of my freedom? Does that not limit my freedom? Who gives the Government the right to say that, if Mexico can produce a better shirt, I as a free person do not have a right to buy it? Too often our Government tries to say that. Too often they are successful in saying it. But my freedom is diminished when they do. It happens every day, but I do not accept it as being right. I object to it.

NAFTA is an important agreement. It is going to be adopted. I simply could not pass through the Chamber and hear it referred to as a betrayal of the American worker. NAFTA is a commitment to the American worker. For the working people of Texas, the people that are working now, and the people that are going to be working because of it, I renew my support for NAFTA.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Arkansas whatever time he may consume.

Mr. BUMPERS. I will probably yield part of it back.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this is the first time I have spoken on the NAFTA. Sometimes, to wait is the better part of valor. I was castigated to some extent in the Arkansas press for not taking a stand on it much sooner than I did.

I was happy to read in the new biography of JFK that he, too, used to delay his decisions until he absolutely had to make them. I happen to think that is a good quality. I have known a lot of people who are called decisive. But oftentimes those people shoot from the hip without really thinking about the decision. The longer one ponders a decision, the more apt it is to be a correct one.

It was only 2 or 3 weeks ago that I began to immerse myself in this issue, because I saw no reason to do it any sooner than I had to. I had a packet on my desk that I assumed the administration had sent me—maybe the Department of Commerce—that must have been about 1 inch thick. It seemed to me it covered just about every aspect of the arguments on both sides. I have not read the bill, nor has any other Member of the U.S. Senate. It has extremely convoluted, difficult language in it. So I have to depend on the authority of somebody who read it and understood it and wrote the summary to tell me what is in the NAFTA.

When I first studied the agreement, I could not imagine how it could possibly be beneficial to the United States. I am going to vote for this agreement, Mr. President. But, after having read that lengthy summary, I am convinced that both sides—I do not mean to denigrate or to be patronizing—but I am convinced that both sides have greatly exaggerated their case here on the floor of the Senate.

I do not mind telling you—and I hope this does not sound self-serving—I could make a very powerful argument on either side of this. All the arguments that have been made here have a lot of merit. But I also agree with the President when he says these are changing times and we must be bold, we must be willing to change.

This is something of a roll of the dice. My first thought, being from a rural State like Arkansas, was that a number of small rural communities in my State have what we call cut-and-sew operations, garment manufacturers that hire anywhere from 100 to 300 people. If those plants close down, which they have been doing with a great deal of regularity in the past few years, there is just nothing else in that community for those people to do. That has been a fairly stable business in my State for the past 3 or 4 years, which means that we have begun to compete with both the so-called Pacific rim, the Asian nations, and with the Central American nations. The apparel manufacturers are the people I worried most about.

But I had my staff do a check on the mail we have had from the business community. We got a lot of mail from labor leaders and members of unions in our State who were, as you know, very strongly opposed to the agreement.

So I went through the mail from the business community also. Strangely enough, of the five apparel manufacturers in my State who wrote me about it, four of them favor this agreement. Levi Straus has a big presence in my State—and we certainly appreciate them. They have been tremendous for our economy. Levi Straus is one of those companies that will make it with NAFTA or without NAFTA. But they strongly favor it. The other three that I heard from were relatively small operators, and they favor it.

The truth of the matter is we are not going to know, Mr. President, for several years whether we have done the right thing or not. The downside politically is, if we have a downturn in the economy next year, the opponents will say it was NAFTA even though NAFTA would probably have nothing to do with it. The people here who favor this, if we have an upturn a year from now or 2 years from now, proponents would say it is because of NAFTA. Both sides will take credit for whichever way it turns out. But I do not see how we can possibly lose very much out of this, and I think we stand to gain quite a lot.

I talked to one of the biggest entrepreneurs in my State yesterday. As a matter of fact, I do not mind telling you it was Don Tyson, of Tyson Foods. I said, "Don, I hope you aren't moving any poultry plants to Mexico as a result of NAFTA." He said, "We don't have any intentions of doing that." He said, "We have a presence down there. We own a percentage of a poultry operation in Mexico now." And I am not going to tell you all of the rest of the things he said, but in any event, he did say, "We hope to produce more chickens, and with the Mexican tariff

dropped we hope to sell a lot more poultry to Mexico, and we will not have to have a Mexican presence to do that."

Virtually all the business people I talk to echo the same sentiment. I talked to some businessmen who said, "We went, admittedly, to Mexico because of a labor differential." And some of them I have talked to, at least one, said, "And we came back because that differential was not enough, that was not enough inducement to keep us there because of all the other disadvantages."

You know, I do not think anybody likes pollution. I do not think any company wants to go someplace where you cannot breathe the air or drink the water. I do not think people just willy-nilly take off for Mexico because you can hire labor for $1 an hour down there.

I am talking rather philosophically about this agreement because this has not really been a debate. It is everybody speaking to the folks back home. Everybody here has long since had his mind made up about how he is going to vote. We are just sitting around now waiting for something else to happen. But there are two or three things I would like to say that I have not heard said.

I remember one of the most fiery, volatile debates we ever had on the Senate floor was over the United States aid to the Contras in Nicaragua. The argument was consistently made by those who strenuously opposed aid to the Contras, that if we sent them as much economic assistance, so they could raise their children on a decent diet; feed, clothe, and house their children, you would not have that war going on in such places.

So everybody said, "War is no solution; economic preservation and well-being is the solution to all wars." There is some truth in that.

Those people who were adamantly opposed to aid to the Contras, based on the proposition we should be sending economic aid rather than military assistance to the Contras, ought to be voting for NAFTA, because one of the big advantages we are supposed to derive out of this is that the Mexican economy is supposed to prosper. They are supposed to be much better off under this agreement. And the argument here among those of us who favor this say we are going to be better off, too.

So it is a win-win situation, based on the arguments of those who favor it. I say that because of two things. No. 1, Mexico has as stable a political system now as they have ever had. I personally think Salinas may be the best President they have ever had. He began to ferret out cheating, putting corrupt people in jail.

Nobody thought that would ever happen in Mexico. A lot of people are sitting around waiting to see who his successor will be to see if he is such a champion of democratic institutions, in the mold of Salinas. But I think this agreement, from a political standpoint, is good for Salinas, and I believe it is good for the economy of Mexico and, therefore, for his successor and the political stability of Mexico.

If there is anything the United States does not need, it is turmoil, economic or political turmoil, on its border to the south. So I believe maybe the biggest advantage we get out of this agreement is to provide Mexico with stability.

The Senator from Montana has done a magnificent job of sponsoring this. When I was studying, I guess political science 103-A, at the University of Arkansas, I remember the professor saying that the stability of any nation depends on the size of its middle class. He said the only thing that has saved Mexico from revolution right now—and, Senator, I hate to tell you how many years ago that was that he said this in class—the stability of Mexico has been totally dependent on an expanding middle class. It is incumbent upon us to help them continue to expand it. This agreement, hopefully, will continue expanding their middle class and providing even more stability.

You know what worries me about our own Nation more than anything else? Our middle class is shrinking. I can tell you that provides a great deal of potential trouble for this Nation. All you have to do is see the number of people in this country living below the poverty line.

Incidentally, we have debated the Brady bill, assault weapons, and all those things, in the past couple of days and I am for those things because, marginally, they help curb the crime rate. But the truth is that as long as more people in this country go below the poverty line, you can expect the crime rate to increase. I do not want to get off on that, but you do not have to be a rocket scientist to figure out that college graduates are not out here killing each other in southeast Washington. People who make $30,000, $40,000 a year are not out here killing each other. When it comes to drugs, college graduates and people making $30,000, $40,000 a year are not doing drugs.

What does that tell you? It tells you exactly how to deal with those problems: Provide decent paying jobs. Give every child when he graduates from high school a real chance, not a rhetorical empty promise, but a real chance for a piece of the rock.

If I were a father of three, which I am—but if I lived in Mexico and my children were hungry, I would be fighting and scratching and clawing to get to the United States, just as they are. One of the biggest hidden costs of all of our social programs is the massive cost of immigration into this country from Latin America.

So if NAFTA works at all, Mr. President, one of the biggest benefits of all is one that has been unspoken about on the floor of the Senate; it will slow that massive emigration out of Mexico, which costs us socially and economically.

It is 10 times better to provide aid to people where they live and want to stay.

You know why I vote for foreign aid—for two reasons: My State is agricultural, and most of foreign aid is agricultural, so we benefit from it. But the principal reason is, it is 10 times better to send food and economic assistance to people where they live and want to stay than to have them trying to swim the ocean to try to get to the United States.

So if NAFTA fulfills any of its promises, it will slow the immigration rate into this country, and I think that is a perfectly legitimate reason to consider the agreement favorably.

Finally, Mr. President, the number one problem in the world is the burgeoning birth rate. In Somalia, there are 6 million people with an ability to feed, in perpetuity, about one and a half million people. When we leave Somalia sometime after the first of the year, it will not be long before you see the same pictures of Somalians starving on evening television. And the idea of trying to bring democracy to Somalia, where they have had nothing but a thousand years of clan fighting, is downright foolish. They do not have the remotest idea of what democratic institutions are, but more than anything else, they do not understand that they are not ever going to make it, as long as they have a limited amount of arable land and continue to have a birth rate of about six children per family.

Mexico, to their credit, has made some strides in bringing about a decrease in their birth rate. In our foreign aid bills we often adopt an amendment that says: "None of the money herein may be spent for birthrate counseling, contraceptives, etc."

You think about it. Every man or woman that has a grain of sense in the whole world knows that the number one problem facing this planet is the 150 percent increase in the world's population in the last 60 years. There are 5.2 billion people on the planet, headed for 10 billion by the year 2035. Probably it will never hit 10 billion because we cannot even begin to sustain 10 billion people. But when we start talking about population, you see all of the red lights on the television cameras snap off. It is a dull subject.

Why is Mexico a poor nation? Because they have more people than they can feed, clothe, and house.

Mrs. Bumpers and I went to Acapulco on a little vacation in 1963.

If I am not mistaken, the population of Mexico at that time was 40 million

people. Today it is 85 or 90 million, and some people say 92 million people. They are not ever going to make it, with their population increasing at such a rate.

Brazil had 45 million people at the end of World War II. Today they have over 140 million people. They will never make it with a birth rate like that.

And Mexico will never make it, with or without NAFTA, until their birth rate declines precipitously from where it is right now. But I will tell you how that happens, too. That happens with economic prosperity and education. The countries that pretty well have their birth rate under control are the developed nations.

Italy is the only developed nation on Earth that has a declining population, and now they are worried about losing their ethnic identity. Japan and Germany have an almost zero population growth.

We have been doing a little better in the United States, but not as well as we should. You cannot discuss this issue without someone wanting to jump up and inject the abortion issue into it.

Well, as I said in the beginning, no minds are being changed around here. These statements are all being made for public consumption—and not to try to persuade a Member. I wish we could go ahead and vote. It is going to pass here overwhelmingly. I am willing to roll the dice with President Clinton and try to improve the plight of Mexico because I think that alone is good for us.

Yesterday a British television cameraman caught me out in the hallway and asked: What do you think about President Clinton and the Chinese? Do you think he will have any effect on the Chinese changing their human rights policies?

I love Bill Clinton. We have been friends a very long time. But the answer to that is no. Not because the President is not very persuasive, and I am sure he is doing his best with the Chinese, but the truth of the matter is, every nation, the United States included, does what it thinks is in its own best interest. I do not think, no matter what anybody says, that we are going to get the Chinese to alter their policy until they feel it is in their interest to do so. They never have and never will.

I am voting for NAFTA because I think it is in our long-range best interest. I also think it is in Mexico's best interest, and that is one of the reasons it is in ours.

I yield the floor, Mr. President.

Mr. BAUCUS. Mr. President, I yield 22 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 22 minutes.

## REFORMULATED GASOLINE PROGRAM

Mr. GRASSLEY. Mr. President, I rise today to discuss an issue of great importance to rural America, to consumers, and to urban areas seeking cleaner air. The issue is what fuels will be allowed in the reformulated gasoline program beginning in 1995?

It is incredible that this question is still unresolved. Congress thought that it was decided in the fall of 1990 when we passed the clean air bill.

We decided at that time that the reformulated gasoline program ought to be fuel neutral, that is, both ethanol—a grain-derived oxygenate produced in Midwest States such as Iowa, Illinois, and Nebraska should be encouraged, and MTBE—a methanol-derived chemical produced by the major oil companies should also be used.

In fact, as you may recall, we agreed to reduce the oxygen content required for these fuels to allow for MTBE's use, and to avoid mandating the use of only ethanol.

As the regulations were developed, however, it became clear that what was emerging was an effective mandate for the use of MTBE. The proposed regulations would have virtually eliminated the use of ethanol.

Therefore, Senators GEORGE MITCHELL, MAX BAUCUS, BOB DOLE, and JOHN CHAFEE joined in a letter to the Environmental Protection Agency that underscored congressional intent that ethanol should have a competitive role in the RFG market, noting that the Clean Air Act was not intended to be a methanol mandate at the expense of ethanol.

So the issue was decided again. This time President Bush instructed his EPA not to mandate the use of MTBE, to assure a role for ethanol in the program, and to encourage the use of this important renewable domestically-produced alternative fuel.

Well, then-candidate Bill Clinton railed against the Bush proposal. He said it was just a cynical attempt to buy votes in Illinois, and that if elected President he would do better.

Clinton said he would convene a summit of all interested parties and work out a viable solution that was even better for ethanol than the Bush proposal. In fact, in Indianola, IA, candidate Clinton promised to make a growing market for ethanol part of his energy policy. With regard to the Bush plan, candidate Clinton stated:

> In a Clinton/Gore Administration, ethanol will be part of an honest and consistent strategy to increase the use of renewable fuels, not a manipulative and unreliable campaign promise . . . A Clinton/Gore Administration will expand the use of ethanol, to increase American jobs, reduce our dependence on foreign oil, and improve the environment

Today, the field in Indianola where President Clinton promised to increase the production and use of fuel ethanol lies empty. And today, a year later, Bill Clinton's campaign promises appear to be as empty as the Indianola field from which they were uttered.

Mr. President, a year has passed, and President Clinton has convened no summit to resolve this issue as he promised.

The Clinton White House has shown no interest, no involvement, and no response. In the meantime, EPA career bureaucrats who insist that only methanol, and methanol-derived ethers, can be used in the reformulated gasoline march ahead, ignoring congressional intent, and ignoring good science.

Members of Congress attempting to meet with the Vice President on this issue have been ignored. More than 150 Members of Congress have written to the President on this issue—only to be given a perfunctory reply that EPA is looking into the issue.

Mr. President, support for ethanol in the reformulated fuels program is widespread throughout the country. Twelve Governors—Republican and Democrat Governors—from throughout the Midwest have written the President.

These Governors have sought President Clinton's support for ethanol. All they want is for the President to honor his campaign promises.

Governors from the States of Michigan, Ohio, Iowa, Illinois, Nebraska, Wisconsin, Minnesota, Kansas, South Dakota, Indiana, and North Dakota strongly support ethanol and they want action on this issue.

I want to share with my colleagues some excerpts from these letters.

My own Governor, Terry Branstad, a strong supporter of ethanol, wrote the president over 2 months ago and said,

> By recognizing ethanol as a major player in the reformulated gasoline market, the ethanol industry can forge ahead with plans to expand production. This expansion of the ethanol market will yield many economic benefits to Iowa and other Midwestern states.

Governor Branstad is exactly right. Americans would reap major economic benefits with an expanded ethanol industry.

Gov. Tommy Thompson of Wisconsin wrote President Clinton saying he is convinced that ethanol belongs in the reformulated fuels program. He goes on to say in his letter of August 19, 1993, that:

> The most recent flooding in the Midwest has hit our farmers hard, in particular corn growers. An additional hardship of not including ethanol in reformulated gasoline will only exacerbate the serious problems currently being faced in America's heartland.

Mr. President, we all remember so vividly the devastation that the floods of 1993 wreaked on the Midwest this past summer. Crops were destroyed. Homes were destroyed. Lives were destroyed. Supporting ethanol will help these victims of the flood by boosting

the Midwest economy and increasing jobs.

Mr. President, Gov. Walter Miller of South Dakota also voiced his strong support to the President on the economy stating that:

Our country faces many challenges, the most pressing of which is to generate jobs that will contribute positively to our economy. Producing all-natural ethanol from American corn is positive for our economy in comparison to using imported petroleum.

Mr. President, do you remember these words? "It's the economy, stupid!" I remember. And it is remembered by Americans who relied upon President Clinton's campaign promises to resolve the ethanol issue more favorably than had President Bush.

But the opposite is about to happen. It is the economy that will suffer if President Clinton fails to support ethanol in the reformulated fuels program.

Governor Miller also touched on an important issue that is a big concern to the Governor of Nebraska. Imports. Mr. President, Gov. Ben Nelson wrote the President saying that the "use of imported methanol is ominous."

Methanol is what the oil companies import to make MTBE, the oxygenated fuel that EPA has mandated to be in the reformulated fuels program. And Governor Nelson backs up his statement with facts. He adds that:

Since the summer 1990, when U.S. oil imports exceeded our total domestic production for the first time in history, there has been an increasing awareness of the dangers to our economy and to our security resulting from such dependence on foreign oil. Today, we import a third more oil than any other nation in the world. Every day Americans pay more than $154 million for imported oil.

Yes, $154 million. Every single day. Governor Nelson continues:

Increasing ethanol's use will be a step toward reducing the nation's growing dependence on foreign petroleum and lessening the nation's trade deficit. If ethanol is not a full participant in reformulated gasoline, it is clear that OPEC will benefit more from the Clean Air Act Amendments than American farmers, ethanol producers, and the domestic natural gas industry. It is beyond belief that we would import products to clean the air we have polluted with foreign oil.

Mr. President, he's exactly right. It is beyond belief that we continue to depend so much on oil imports. It is beyond belief that we embrace a policy that allows foreign oil to pollute our air. And it is beyond belief that thanks to President Clinton's inaction, we are about to mandate the use of a foreign product that is suppose to clean up this air.

I emphasize the word "suppose" for now, and will explain in a moment.

Indiana Gov. Evan Bayh also supports ethanol's inclusion in the reformulated fuels program. Governor Bayh, in a letter last month to the President stated, "Increased use of the fuel would decrease our dependence on imported oil."

Gov. Jim Edgar wrote President Clinton citing a study sponsored by the Council of Great Lakes Governors. Governor Edgar said that this study, the most comprehensive and sophisticated scientific study ever attempted, established ethanol's environmental effectiveness in reducing urban ozone.

Mr. President, ethanol reduces urban ozone. It's been scientifically proven. This study proved that the use of a 10 percent ethanol blend is just as good at cleaning up urban ozone air quality problems as using a 11-percent MTBE blend.

That is the purpose of the reformulated fuels program—to reduce urban ozone pollution.

The most difficult issue affecting the reformulated fuels program has not been resolved by the study.

Now the EPA needs to take their blinders off, give this study an honest look, and include ethanol in the program.

Mr. President, I ask unanimous consent that all 12 Governor's letters be printed in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
*Des Moines, IA, August 6, 1993.*

President WILLIAM J. CLINTON,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: This letter requests your support of a strong role for ethanol in the Reformulated Gasoline Program.

I have just reviewed the results of the Systems Applications International Study, "Comparison of the Air Quality Effects of Ethanol and MTBE in Reformulated Gasoline in the Lake Michigan Region," which was conducted for the Council of Great Lakes Governors in July.

The results of the study, which uses the most comprehensive and sophisticated data ever collected, show that ethanol can improve the air quality of our major urban centers. Specifically, the study concludes that a reformulated gasoline blended with ethanol decreases ozone formation to the same extent as methyl tertiary butyl ether (MTBE), a petroleum-based alternative.

By recognizing ethanol as a major player in the reformulated gasoline market, the ethanol industry can forge ahead with plans to expand production. This expansion of the ethanol market will yield many economic benefits to Iowa and other Midwestern states.

Thank you for your attention to this critical issue.

Sincerely,

TERRY E. BRANSTAD,
*Governor of Iowa.*

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OFFICE OF THE GOVERNOR,
*Columbus, OH, September 16, 1993.*

Hon. WILLIAM CLINTON,
*President of the United States,*
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: On behalf of the farmers and citizens of the state of Ohio, I respectfully request your support of the inclusion of ethanol in the Environmental Protection Agency's pending Reformulated Gasoline Program (RGP).

Certainly the results of the recently completed "Systems Application International Study" commissioned by the Great Lakes Governor's Association ("Comparison of the Air Quality Effects of Ethanol . . . in Reformulated Gasoline—July 1993) indicates ethanol can improve the air quality of our major urban centers as effectively as petroleum based methyl tertiary butyl ether (MTBE).

Agriculture is Ohio's number one industry and corn (a major source of ethanol) is the number one commodity produced by that industry. Your support of ethanol and the inherent benefits of your endorsement would help provide Ohio's (and the nation's) ethanol industry the incentive to expand production. Such expansion would result in cleaner air, more jobs, a stronger agricultural economy and reduced dependence on foreign oil.

Therefore, based on extensive research and testing, I believe the inclusion of ethanol in the Reformulated Gasoline Program is the right thing to do for Ohio, the Great Lakes Region as well as the entire country.

I appreciate your consideration and attention to the issue as we work together to improve our environment while strengthening the cornerstone of the country's economy—agriculture.

Sincerely,

GEORGE V. VOINOVICH,
*Governor, State of Ohio.*

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OFFICE OF THE GOVERNOR,
*Indianapolis, IN, September 14, 1993.*

Hon. WILLIAM JEFFERSON CLINTON,
*President of the United States,*
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: It is my pleasure to bring to your attention a study recently completed by the Council of Great Lakes Governors. The study investigated the impact of ethanol blended fuel on ozons formation in the Lake Michigan Airshed.

The study concluded that emissions from gasoline blended with ethanol are less reactive than gasoline blended with another additive, methyl tertiary butyl ether (MTBE). Ethanol was shown to be as effective as MTBE in reducing ozone pollution.

Results of the study have been forwarded to Environmental Protection Agency Administrator Carol Browner. As the EPA finalizes rules for the reformulated gasoline (RFG) program in ozone non-attainment areas, I hope this recent study is considered.

Because ethanol is a renewable fuel produced from corn, ethanol production offers great economic promise, especially to the Midwest states. Increased use of the fuel would decrease our dependence on imported oil.This latest study offers evidence that ethanol is also environmentally justified to be included in the requirements of the reformulated gasoline program.

For these reasons, I urge the EPA's consideration of ethanol's participation in the RFG program. Thank you for your attention to this issue.

Sincerely,

EVAN BAYH.

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OFFICE OF THE GOVERNOR,
*Lansing, MI, September 8, 1993.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I am pleased to send to you the final report of a study that was sponsored by the Council of Great Lakes Governors (CGLG) on the comparative impact of ethanol-blended fuels in ozone formation. The study, "Comparison of the Air Quality Effects of Ethanol and MTBE in Reformulated Gasoline in the Lake Michigan Region," was conducted by Systems Applications International (SAI).

The study simulates the ozone air quality impacts of an 11 percent MTBE blend at 8.1 RVP (Reid Vapor Pressure) and a 10 percent

ethanol blend (E10) with a RVP a full 1.0 psi higher in the Lake Michigan Air Shed to the year 2000. The results of the study demonstrate that ethanol does not have a detrimental effect on ozone air quality. In fact, the results of this study reveal essentially no difference in ozone formation between the two oxygenates (ethanol and MTBE) using the same clear gasoline base.

The SAI study also tested the sensitivity of the results to gasoline volatility by using a lower average RVP base of 7.8 psi as the base instead of 8.1 psi. The net affect of E10 compared to MTBE on the overall potential ozone from on-road emissions appears to be significantly reduced if the base RVP is lowered by only 0.3 psi. This result is very important to us in Michigan as my Steering Committee on Clean Air Act Implementation is recommending tightening RVP standards for base gasoline in Michigan's ten moderate ozone non-attainment counties to 7.8 RVP rather than opting into the EPA Reformulated Gasoline program (RFG). This is a cost-effective approach which further reduces VOC and ozone emissions. The study credited the use of E10 with an additional 4.6 percent reduction in gas total VOC emissions between calendar years 1995 and 2000.

These "clean air/clean fuel" standards, along with companion measures, need to be passed by the Michigan Legislature this fall to fully comply with the federally mandated requirements and deadlines in the U.S. Clean Air Act amendments of 1990 and to avoid severe federal sanctions. The package includes the opportunity for more jobs and economic growth while providing significant environmental and public health benefits. I am confident that we will be successful with our sound proposals, as we have bi-partisan legislative support along with support from key business, public health and environmental groups.

The CGLG study is a significant advance on earlier work. It utilizes a far more extensive data base and a more detailed inventory as part of the Lake Michigan Ozone Study using MOBILE 5a. The study also benefits from a focus on the year 2000, which is more likely to reflect the conditions of the EPA Reformulated Gasoline Program as well as changes in motor fuel standards for RVP. The use of a five-day ozone episode has also enabled a careful examination of effects throughout the air shed.

The protocol was reviewed by U.S. EPA and Argonne National Laboratory prior to the initiation of the study. SAI and the study's sponsors met with staff from the EPA Office of Mobile Sources in Ann Arbor, Michigan, to discuss the proposed protocol. A number of modifications were made to the study protocol based on EPA's suggestions.

Based on this study's conclusion and those from earlier studies that also indicated no significant difference in the ozone air quality impact between the two oxygenated fuels, I recommend that ethanol serve an important role in the U.S. EPA Reformulated Gasoline Program. Since 11 percent MTBE will be playing an appropriate role in the RFG, so should 10 percent ethanol. They represent a pair of blends that can share the same clear gasoline base, have similar octane levels, and meet all the requirements of the Clean Air Act Amendments of 1990 for RFG other than the 1 psi RVP increase for the ethanol blend.

Thank you for your interest and attention to this important matter.

Sincerely,

JOHN ENGLER,
*Governor.*

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OFFICE OF THE GOVERNOR,
*Springfield, IL, August 12, 1993.*

Hon. WILLIAM J. CLINTON,
*President of the United States,*
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: The Council of Great Lakes Governors recently completed the most comprehensive and sophisticated scientific study ever attempted which compared the impact of ethanol blended fuel on ozone formation in the Lake Michigan Airshed. The results of the study have been forwarded to U.S. Environmental Protection Agency (USEPA) Administrator Carol Browner.

The conclusions of this scientific analysis further establish ethanol's environmental effectiveness in reducing urban ozone. The best available data and models were used to conduct this study. State air pollution officials and Argonne National Laboratory scientists provided vigorous review of both the study design and the final results. The design of this analysis was finalized only after USEPA provided input into the study protocol, assumptions and database.

It is imperative that ethanol not be precluded from participating in the reformulated gasoline program for ozone non-attainment areas. The USEPA is currently finalizing the rules for this program and according to the results of this and other studies, there is no scientific basis for preventing ethanol's participation in the reformulated gasoline program.

If ethanol is allowed to fairly compete with other clean-burning fuels in the reformulated gasoline market, a commensurate increase in ethanol production will occur providing a very important economic stimulus to the Midwest and our vital rural sector. On a national basis, the increased use of this renewable fuel will help diminish our dependence on imported oil and other fossil-fuels while helping to bring our urban areas into attainment for both ozone and carbon monoxide levels.

The science is now available to support the decision to use ethanol blended fuels in reformulated gasoline, but action must be taken soon.

Thank you for your attention to this very important issue to the American farmer and to the economic health of the Midwest.

Sincerely,

JIM EDGAR,
*Governor.*

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MINNESOTA DEPARTMENT
OF AGRICULTURE,
*Saint Paul, MN, August 16, 1993.*

CONTACT: Jackie Renner, MDA Communications Director

GOVERNOR HAILS RESULTS OF NEW STUDY

Governor Arne H. Carlson today praised the findings of a comprehensive scientific study on the effectiveness of ethanol in reducing ozone in urban areas.

The Council of Great Lakes Governors commissioned the study earlier this year. The study confirms that ethanol-blended reformulated gasoline is cleaner than other gasoline blends and is, therefore, beneficial to the environment.

Governor Carlson said, "This study reinforces what we believed all along. Ethanol is an environmentally-friendly fuel, even in large cities with serious smog problems. This is good news for Minnesota agriculture at a time when the industry has been hard-hit by too much rain and not enough warm weather."

Minnesota Department of Agriculture Commissioner Elton R. Redalen noted the study is important because President Clinton is under court order to make a final announcement by September 15 on the role that ethanol will play in nine major metropolitan areas that have serious enough smog problems to have been designated "ozone non-attainment areas" based on the 1990 Clean Air Act. The Twin Cities have not been designated as an "ozone non-attainment area" but are required to use cleaner burning fuel during the winter months because of high levels of carbon monoxide pollution.

This study compared the impacts of ozone formation between gasoline blended with MTBE (methyl tertiary butyl ether) which is a petroleum based additive, and gasoline blended with 10 percent ethanol. The study was conducted by Systems Applications International, a California-based firm that previously had conducted environmental studies for both the EPA and the oil industry.

Commissioner Redalen added, "This is a real morale booster for all Minnesota corn farmers. It again confirms there's no scientific basis to bar ethanol from use to help clean the air in our smoggiest cities."

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STATE OF WISCONSIN,
*August 19, 1993.*

Hon. WILLIAM J. CLINTON,
*President of the United States,*
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I am writing to request your support for the inclusion of ethanol at 10% blends in the Reformulated Gasoline (RFG) Program that is currently being established by the U.S. Environmental Protection Agency (USEPA). As a former member of The Governors' Ethanol Coaliton, I know that you are aware of the debate that has circulated around this issue over the past two years. That is why Wisconsin, along with other states in the Council of Great Lakes Governors, commissioned the most comprehensive study to this point in the resolution of this very difficult issue.

The focus of the study was to analyze the air quality effects of oxygenated fuel additives used in the RFG program. The study simulated the difference in ozone formation from the use of the two most commonly used oxygenates (ethanol and MTBE) in the Chicago-Milwaukee area for the year 2000. The Council initiated the study in an effort to bring the debate to an environmentally responsive and scientifically valid resolution.

After reviewing the study's results, I am convinced that ethanol belongs as an oxygenate in the RFG program for use in ozone nonattainment areas. In addition, the most recent flooding in the Midwest has hit our farmers hard, in particular corn growers. An additional hardship of not including ethanol in reformulated gasoline will only exacerbate the serious problems currently being faced in America's heartland. A favorable inclusion of ethanol in reformulated gasoline will not only help the nation's corn growers, but provide many additional jobs from the expansion of production of this domestically produced fuel. That is why I ask for your consideration and that of USEPA in resolving this issue and including ethanol as a way of resolving ozone formation in the Lake Michigan airshed.

Sincerely,

TOMMY G. THOMPSON,
*Governor.*

STATE OF KANSAS,
*Office of the Governor, October 5, 1993.*

Hon. BILL CLINTON,
*President of the United States,*
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: As you know, the Environmental Protection Agency is preparing to finalize regulations implementing the reformulated gasoline (RFG) requirements included in the Clean Air Act. I am writing because I believe recent scientific information demonstrates the efficiency of modifying the proposed rules to assure a competitive role for ethanol in this important program.

The Council of Great Lakes Governors recently completed the most exhaustive analysis of the ozone forming potential of ethanol and MTBE blended reformulated gasolines ever conducted. The conclusions of this study are clear—there is no difference in the ozone potential of either oxygenate when blended with the same reformulated gasoline blendstock. In fact, the ethanol-blended fuel produced maximum ozone level, 6 ppb less than the MTBE blended fuel. This is significant because the current proposal by EPA allows the unrestricted use of MTBE in RFG, but requires ethanol blenders to secure an expensive, specially-tailored reformulated gasoline blendstock. Such a requirement is uneconomic, discourages the use of ethanol in this important program, and cannot be supported for any air quality reason.

As a member of the Governors Ethanol Coalition, I have been working for more than two years to find an environmentally and technically sound resolution to this issue. I believe the Council's study answers any questions regarding ethanol's air quality effects, and provides the basis to promulgate a truly oxygenate neutral program that allows either 10-percent ethanol or 11-percent MTBE to be added to the same reformulated gasoline blendstock with the assurance that the environment will be equally protected. In doing so, this Administration will reduce the cost of the program to consumers by providing a competitive oxygenate market, allow more areas to take advantage of the RFG program by increasing oxygenate supplies, and send a strong signal to American farmers of its commitments to rural economic growth.

An expanding market for ethanol is critically important to the Kansas agricultural economy. Trade reports indicate that there are plans for more than a billion gallons of domestic ethanol production capacity which will move forward if market opportunities for ethanol are encouraged with favorable RFG regulations. This level of production expansion represents hundreds of thousands of jobs, billions in new investment and economic growth, reduced energy imports, and an improved balance of trade.

Mr. President, the increased use of ethanol reflects the synergistic relationship between economic growth and environmental improvement which has been fundamental to your message to the American people. Assuring that the RFG rules allow for the use of ethanol will help to make a reality.

Sincerely yours,

JOAN FINNEY.

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STATE OF SOUTH DAKOTA,
*Pierre, SD, October 4, 1993.*

THE PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I am writing to request your support for the inclusion of ethanol at the 10 percent blend in the Reformulated Gasoline (RFG) Program currently being considered by the U.S. Environmental Protection Agency.

As Governor of South Dakota, it is important to me ethanol be ensured a strong role in any program designed to help clean up the air in our nation's most polluted cities.

I do not ask this in consideration of a subpar fuel. I ask this because I know ethanol will have no negative effects on air quality at the 10 percent level. The study done by the Council of Great Lakes Governors is a definitive resource on that question. I am asking for you to ensure ethanol's role because the facts are clear 10 percent ethanol is good for the air and humans.

Our country faces many challenges—the most pressing of which is to generate jobs that will contribute positively to our economy. Producing all-natural ethanol from American corn is positive for our economy in comparison to using imported petroleum. Being an agriculture-based state, ethanol production is an important part of my state's economy.

Your assistance with this effort is important to many people in my state who work at ethanol plants, as well as to all people who want a stronger economy and cleaner air.

Sincerely,

WALTER D. MILLER.

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STATE OF COLORADO,
*Denver, CO, September 28, 1993.*

Hon. BILL CLINTON,
*The White House, Washington, DC.*

DEAR PRESIDENT CLINTON: As a charter member of the Governor's Ethanol Coalition, I strongly support the emerging role of ethanol in our nation's renewable energy supply. I am concerned that regulations proposed by the Environmental Protection Agency (EPA) will significantly curtail the market for ethanol in many of our nation's largest metropolitan areas.

EPA is developing final regulations to implement the reformulated gasoline (RFG) requirements included in the Clean Air Act. The proposed regulations would allow the unrestricted use of MTBE in reformulated gasoline, but would require ethanol blenders to secure an expensive, specially-tailored RFG blendstock. I understand that this requirement is based upon EPA's contention that ethanol blends elevate ozone levels—a major problem in many urban areas.

In July, the Council of Great Lakes Governors completed the most exhaustive analysis ever conducted of the ozone-forming potential of ethanol and MTBE blended reformulated gasolines. The study's chief conclusion: no difference exists in the ozone-forming potential of 10 percent ethanol or 11 percent MTBE when blended with the same RFG blendstock. A copy of the study's executive summary is enclosed.

Trade reports indicate that industry plans to expand domestic ethanol production capacity by more than a billion gallons if market opportunities for ethanol are encouraged with favorable RFG regulations. Such an expansion represents billions in new investment, thousands of new jobs, reduced energy imports and an improved balance of trade.

Increased use of ethanol is consistent with your message to the American people that we can have economic growth as well as environmental quality. Assuring that the RFG rules allow for the competitive use of ethanol will help our nation reach both of these key goals.

Sincerely,

ROY ROMER,
*Governor.*

Mr. GRASSLEY. Mr. President, I want to share with my colleagues another letter. This letter is from the mayor of Chicago, Richard Daley. Chicago is the largest single market for ethanol-blended fuels in the country. Mayor Daley in a July 13 letter, told President Clinton:

Ethanol use has important economic and energy security implications for the city of Chicago, the State of Illinois and the nation at large. Illinois is the largest producer of ethanol in the nation. . . . Ethanol-blended fuels have been successfully marketed in the City of Chicago for the past 12 years. . . . The City of Chicago supports ethanol.

Mr. President, Mayor Daley wants the environmental needs of the citizens of Chicago met. Mayor Daley wants a competitive market to hold down costs and provide consumers with a choice. Mayor Daley wants to create rural economic development opportunities for the state of Illinois.

I ask unanimous consent that Mayor Daley's outstanding letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE MAYOR,
*Chicago, IL, July 13, 1993.*

Hon. WILLIAM J. CLINTON,
*The President, The White House Washington, DC.*

DEAR MR. PRESIDENT: To ensure a competitive role for ethanol-blended fuels, I am requesting your support for modifications to the proposed rule implementing the reformulated gasoline requirements of the Clean Air Act.

The proposed rule would severely restrict the use of ethanol blends in Chicago and other major cities, and give the other oxygenated fuel, a methanol-based chemical produced by major oil companies known as MTBE, a virtual lock on the market for the oxygenates that must be included in reformulated gasoline for environmental purposes.

Recent studies have demonstrated that, while ethanol may increase mass emissions, its higher oxygen content and lower reactivity result in a fuel blend equal to or better than MTBE in reducing ozone formation. There is no legitimate reason to impose barriers to the use of ethanol in the reformulated gasoline program.

Chicago's interest in these rules is threefold. First, we want to be certain that the implementation of this program will result in a demonstrable reduction in ozone levels, not just a reduction in the mass of emissions that may lead to ozone formation. A focus on emissions accounting, rather than actual ozone formation, would not address the true environmental needs of the citizens of Chicago, and might require the imposition of more stringent and perhaps more costly ozone control programs at a later date.

Second, we want the assurance that there will be a competitive market for the oxygenates that are required to be included in the reformulated gasoline program. Competition will hold down costs and provide consumers with a choice. Ethanol-blended fuels have been successfully marketed in the City of Chicago for the past 12 years. They account for nearly 40 percent of the fuels sold in the Chicago metropolitan area today and enjoy widespread consumer support. If the reformulated gasoline regulations result in only MTBE being available, consumer support for the program will quickly diminish.

Finally, ethanol use has important economic and energy security implications for the City of Chicago, the State of Illinois and the nation at large. Illinois is the largest producer of ethanol in the nation and Chicago is the largest single market for ethanol-blended fuels in the country. Ethanol production creates rural economic development opportunities, provides jobs in regions all over the state of Illinois, and enhances our energy security by replacing imports of foreign crude oil.

Ethanol production is important to our nation's economy and energy security, provides healthy competition in the reformulated gasoline marketplace, and, most importantly, is an effective weapon in our fight for cleaner, healthier air. The City of Chicago supports ethanol, and we believe it must be allowed to compete in the reformulated gasoline market in a meaningful way. I urge your support and assistance to ensure that it is allowed to compete.

Sincerely,

BILL M. DALY,
*Mayor.*

Mr. GRASSLEY. Mr. President, all of these public leaders are simply requesting that ethanol be allowed to be used in the reformulated gasoline programs. All they want is choice. They do not want to be forced to mandate MTBE for their citizens and lock out ethanol, a fuel produced in many of these States.

Despite the simplicity and the merit of these requests, however, recent press reports indicate that EPA has once again decided which fuels should be allowed to compete in the reformulated gasoline market, and this time, the decision is that ethanol should not be allowed to compete.

So I rise today, Mr. President, to say that this is a totally unacceptable result of the clean air bill we passed. It flies in the face of congressional intent. It mocks the former administration's good-faith effort to assure a role for ethanol in this program.

And, finally, it begs the question—was Bill Clinton being honest with the people of Iowa—and the people throughout America interested in a clean, domestically produced, renewable fuel such as ethanol?

Was President Clinton sincere a year ago when he said that his administration would improve upon the Bush plan and increase the role for ethanol in future gasoline markets?

Or, has he simply ceded responsibility for energy and economic policy to EPA bureaucrats that have a decidedly promethanol and antiethanol bias?

This is an important question, because in the absence of any leadership from the White House on this issue, EPA has perpetuated an extremely negative, acrimonious, and misleading campaign against ethanol, and promoted an MTBE only program that will leave this country more dependent on imported energy, lining the pockets of international oil companies.

Let us face it. Many oil companies do not want ethanol because they cannot control its supply. These oil companies are intent upon maximizing hydrocarbon throughput at the expense of domestically produced renewable energy sources, and at the expense of American consumers, and I might add, at the expense of American's health.

There are several serious questions regarding the efficacy of an MTBE mandate that, in the absence of a competitive alternative, will undermine consumer acceptance of the reformulated fuels program.

First of all, MTBE is offensively odoriferous. Simply stated, this stuff stinks.

I would like my colleagues to take a whiff of this. It is incredible. It is making people sick.

In fact, Congress just approved a waiver for Alaska because MTBE was making people sick. And yet, the U.S. Government is about to mandate the use of MTBE in the reformulated fuels program.

I wish I could bring a vial of MTBE to the Senate floor today so my colleagues could smell it first hand. So they could understand my alarm with what EPA is about to mandate in fuels all across the country.

Unfortunately, or perhaps fortunately for my colleagues, the Senate rules prohibit anything other than water on the Senate floor.

But MTBE is on EPA's list of controlled toxic substances, in fact, it's poison.

Now there is some irony. We can't bring anything more potent on the Senate floor than water, yet we are about to let EPA mandate the use of a controlled toxic substance in cities from coast to coast. Mr. President, this makes no sense.

In sharp contrast, the only way ethanol can be harmful is if you get intoxicated on it. And of course, a lot of people around the world pay good money to get intoxicated.

EPA's MTBE mandate presents four serious problems to Americans which I would like to discuss—the impact on public health, the threat to groundwater supplies, the excessive cost, and the weakening of our energy security.

Each of these problems would be resolved, or at least mitigated if ethanol were allowed to compete effectively in this important program.

PUBLIC HEALTH

MTBE is on EPA's list of controlled toxics for a reason. It is dangerous. Chronic toxicity studies in male rats found significant nephrotoxic effects; that is, clear pathologic changes in the kidney, from relatively low exposures to MTBE.

The Centers for Disease Control have discovered serious public health questions that remain unresolved. These problems involve the exposure to MTBE evaporative and exhaust emissions that have yet to be completely evaluated.

After an exhaustive study in Fairbanks, Alaska, last winter, the CDC, in a letter to the Alaska Department of Environmental Conservation reported their findings as follows:

1. In areas where MTBE was added to gasoline, MTBE was detectable in the blood of both occupationally-exposed persons and the general public.

2. Persons with higher blood levels of MTBE reported serious symptoms, including headache, nausea, burning of the nose and throat, and spaciness, far more frequently than those with lower blood levels of MTBE.

3. Exposure to gasoline without MTBE did not result in increased symptoms.

4. We believe that until MTBE is fully evaluated in community-based studies, questions will remain as to its safety for widespread distribution and use.

Finally, the CDC noted that its investigation determined "a similar relationship between higher blood levels of MTBE and symptoms in Stamford, CT."

Mr. President, I ask unanimous consent that the CDC letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES, PUBLIC HEALTH SERVICE,

*Atlanta, GA, August 12, 1993.*

Hon. JOHN A. SANDOR,
*Commissioner, Department of Environmental Conservation, Juneau, AK.*

DEAR MR. SANDOR: Enclosed please find an interim report that describes the epidemiologic investigations on human exposures to methyl tertiary butyl ether (MTBE) conducted by the Centers for Disease Control and Prevention (CDC) in collaboration with the Alaska Department of Health and Social Services and the Alaska Department of Environmental Conservation in Fairbanks, Alaska.

Our major findings were:

1. In areas where MTBE was added to gasoline MTBE was detectable in the blood of both occupationally-exposed persons and the general public.

2. Persons with higher blood levels of MTBE more frequently reported symptoms, including headache, nausea, burning of the nose and throat, and spaciness, compared to these with lower blood levels of MTBE.

3. Exposure to gasoline without MTBE did not result in increased symptoms.

4. We believe that until MTBE is fully evaluated in community-based studies, questions will remain as to its safety for widespread distribution and use.

Thank you for the opportunity to work with you to investigate the illnesses in Fairbanks. As you know, we discovered a similar relationship between higher blood levels of MTBE and symptoms in Stanford, Connecticut. The consistency between the two study sites add strength to these findings.

We hope this interim report will be helpful to you. We believe it raises questions which must be resolved in future investigations.

Please contact us if you have other questions or concerns that we can address. We can be reached at (404) 422-7320.

Sincerely yours,

RUTH A. ETZEL, M.D., PH.I.,
*Chief, Air Pollution and Respiratory Health Branch, Environmental Hazards and Health Effects, National Center for Environmental Health.*

Mr. GRASSLEY. For its part, the EPA discounts these concerns, maintaining that the consumer complaints are only the result of the increased cost of MTBE blended gasolines.

Mr. President, simply dismissing these concerns does not square with consumers in Alaska, Montana, New Jersey, New York, and elsewhere that have experienced very real headaches, nausea, and vomiting that they attribute to MTBE.

One report in the Bergen Record noted that the National Center for Environmental Health Strategies received 6,000 complaints from New Jersey consumers in just 2 months after MTBE was introduced as the only oxygenate in the northern New Jersey metropolitan market. As noted by one Record story:

Working service station pumps for seven years, George Abbott Jr. figured he'd grown accustomed to gasoline's eye-watering vapors. Then oxygenated fuels arrived. "They say it cleans the air," Abbott, 22, said at his father's Fair Lawn Service Center. "But it's horrible. I get headaches all the time. You can't even stand near the cars.

Mr. President, unlike MTBE, ethanol would not cause these problems for Mr. Abbott.

I ask unanimous consent that just a few of the hundreds of press reports all across the country noting the consumer complaints attributed to MTBE exposure be added to the RECORD.

In addition to the consumer complaints, there are also reports of an alarming increase in MTBE-related health complaints from workers. Anecdotal evidence abounds. According to one report in U.S. Oil Week:

Life changed for Brian Ahern of Fairbanks, Alaska, the day he was doused by gasoline with MTBE in it. Months after his Nov. 16 accident, the 30-year-old told us he can't stand for more than 20 minutes before his legs give out. He walks with a cane and hasn't driven since January. Ahern says he suffers from memory lapses, headaches and has problems concentrating. A former small-engine mechanic, he says he can't even change the spark plugs in his snowmobile because he can't remember what to do.

Another Oil Week article describes "health horror stories" collected by MTBE marketers:

Fresno, California, jobber Bob Goeringer tells Oil Week he's convinced a life-threatening allergic reaction he suffered this winter was linked to increased levels of MTBE in gasoline. Goeringer's story, along with complaints from 15 to 20 other jobbers, convinced the California Independent Oil Marketers Association to survey members about MTBE related health problems.

Mr. President, I ask unanimous consent that these press reports be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Oil Week, Nov. 20, 1993]

(By Susan Ferrar)

MTBE LINKED TO ILLNESS

EPA will threaten sanctions against Alaska for trying to ditch oxy-fuels, our sources say.

Meantime, Center for Disease Control study to be released shortly found oxygen-rich additive MTBE in the bloodstreams of people who complained of flu-like symptoms from exposure in Alaska last year, sources say.

But study concludes cases are too limited on a geographical basis to draw any broad conclusions, according to *Oil Week* sources.

EPA threats: Letter by Administrator Carol Browner reportedly circulating within the agency warns Alaska the agency will go after its highway funds if the state stops oxy-fuels.

But Paul Argyropoulos of EPA's Office of Mobile Sources told us the agency hasn't decided yet on how to respond to Alaska.

He says EPA is still reviewing data from MTBE testing under cold temperatures. Agency's findings should be released later this fall, Argyropoulos says.

Department of Environmental Conservation in Alaska has asked EPA to suspend oxy-fuels in Anchorage and Fairbanks until studies based in arctic climates prove MTBE works safely and effectively to cut air pollution, DEC Spokesman Joe Ferguson says.

State regulators filed an emergency reg to delay planned Nov. 1 start-up for oxy-fuels until 75 days after the state is satisfied MTBE is safe.

Last winter, EPA agreed to stop the oxy-fuels in Fairbanks after wide-spread complaints of breathing problems, nausea and headaches.

But Argyropoulos says legally EPA may not be able to allow Alaska to opt out of the program this time without imposing sanctions. Clean Air Act requires oxygen-treated fuels in non-attainment areas, he says.

EPA has already threatened another Western state, California, with sanctions for bucking EPA over smog inspections. EPA backed down last week.

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WORKERS REGISTER SPORADIC HEALTH COMPLAINTS ABOUT EXPOSURE TO MTBE FUMES

Several petroleum and tank equipment employees in at least three states who have been exposed to large amounts of oxygenated gasoline blended with MTBE, an ether derived from methanol, have complained of health problems ranging from severe headaches to nausea, but observers close to this issue stress that the complaints are isolated and do not appear to reflect a widespread problem. None of the sources interviewed for this story were aware of any similar concerns associated with workers exposed to significant amounts of oxygenated fuel blended with ethanol, the other main additive used in the federal oxy-fuel program.

The complaints are receiving growing attention because they are being registered in the wake of the December 1992 suspension of the oxygenated gasoline program in Fairbanks, AK, over concerns about harmful effects of oxygenates in low temperatures (New Fuels Report, Feb. 15, p.1). And state officials in Alaska are now examining whether to suspend the Anchorage oxy-fuel program because of related concerns.

The federal wintertime oxygenated fuels program, which began on Nov. 1, 1992, mandates the sale of oxygenated gasoline in 39 carbon monoxide (CO) non-attainment areas.

An official with the Petroleum Equipment Institute, located in Tulsa, OK, says that the group received its most recent health complaint about oxy-fuels last week from a petroleum equipment contractor working around gasoline containing MTBE. The employee complained of severe headaches and is wearing a special mask when working with the fuel in an attempt to alleviate the problem. PEI officials add that they were informed of a similar complaint several weeks ago from a large petroleum equipment contractor in New Jersey, but they could not be more specific.

According to a source with the Tank Installers of Pennsylvania State Association, which works with about a hundred companies, the group has heard complaints about oxygenated fuels from installer members in the Philadelphia area. Once again, these complaints generally centered around the use of MTBE. Philadelphia, and four surrounding counties, are mandated to use oxy-fuels. Members of the tank installers group are the workers who open the fuel pumps to change hoses and replace gaskets.

The source says that the complaints show there is a need to recognize the potential health problems that can occur from exposure to large amounts of oxygenates—particularly MTBE—and that there is a need for proper ventilation and other protective measures when individuals are working around them.

The official explains that a handful of member companies within the Philadelphia area have issued complaints to the tank installers association about workers experiencing nausea, vomiting and dizziness when they were exposed to substantial levels of MTBE fumes.

Some of the complaints were registered late last year by the Walt Forest Service Station Equipment Company on behalf of a few other firms that the company does business with. According to an official with Walt Forest, which specializes in pump repair, tank removal and installation, these firms included individual gasoline stations, a fuel supplier with delivery trucks and another related company that works on pumps. Health problems from exposure by employees with the companies to significant amounts of MTBE resulted in health problems ranging from nose bleeds to the hospitalization of an employee for inflamed lungs.

The source would not release specific names of the companies involved, explaining that concerns over the health effects of oxygenates could jeopardize the business relationship that Walt Forest has with the firms. Other complaints were submitted to the tank installers association by C&S Contractors, which is also in the Philadelphia area, but no further details were available.

In addition, an official with the Pennsylvania Petroleum Association received complaints in November and December of last year from G. Mase and Brinker Fuels, two small, independent distributors of gasoline in suburban Philadelphia, an association official says. The petroleum association, based in Harrisburg, is comprised of petroleum distributors and does not include major oil companies among its members. The observer explains that the complaints were generally for headaches and nausea, and he adds that he does not know if the problems are a "symptom of a greater health effect." While it appears that MTBE was involved in those incidences, this could not be confirmed at press time.

An official with the Petroleum Equipment Contractors Association of New Jersey, located in Springfield, adds that he is familiar with complaints from employees of member

companies that they sometimes become lightheaded around fumes from oxygenated fuel blended with MTBE. The source stresses that the group has yet to receive any official complaints about health effects linked to oxy-fuels, but he also adds that he anticipates a few written complaints about the problem. The New Jersey petroleum equipment association has about 60 members in the petroleum equipment field.

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DRIVERS IN ALASKA, MONTANA PROMPT INQUIRY INTO OXY FUELS

(By Bill Scanlon)

Complaints from drivers in Alaska and Montana have prompted an Environmental Protection Agency investigation into health effects of fuel oxygenated with MTBE. Results should be available by November.

But Colorado noses apparently have gotten used to MTBE in gasoline, and official complaints of headaches or dizziness have dwindled to one or two a year here, says Colorado Department of Health.

MTBE—methyl tertiary butyl ether—helps gasoline burn more completely, so it reduces the amount of poisonous carbon monoxide in the air.

The ether in MTBE can cause dizziness and nausea. In very high concentrations, it has caused kidney failure in lab animals, said Dr. Richard Irons, director of molecular toxicology at the University of Colorado Health Sciences Center.

In 1987–88, metro Denver became the first site in the country to mandate oxyfuels in wintertime driving. That year, Colorado Department of Health got 2,700 inquiries from drivers, including 28 people complaining about the smell and a handful saying it caused dizziness or nausea, said Kim Livo, air pollution specialist with the Colorado Health Department. Then gasoline got an 8% mixture of MTBE—or a does of ethanol. Now, the MTBE content is 15%.

Now, virtually no one complains to the state about the odor, and one or two people a year complain about dizziness or asthma attacks, he said.

Last fall, oxyfuels were mandated in three dozen metro areas as a way to attack pollution and meet clean Air Act amendments.

In the first four weeks of the program in Alaska, officials in Fairbanks received 120 complaints of illness. Gov. Walter Hickel halted sales of MTBE in December.

EPA and Health Department officials in Colorado know about the MTBE health studies but continue to say the good outweighs the harm and want mandatory oxyfuels to continue as a wintertime strategy.

"No information has come to light to dissuade us from oxyfuels," said Jack Hidinger, deputy director of air radiation and toxics for EPA Region 8. MTBE lowered carbon monoxide emissions 23% last winter, Livo says.

Opponents say the reductions are less, that it costs about $1,100 for each ton saved, and that it's better to target the few dirtiest cars and let the others save a nickel or so a gallon at the pump.

Ether from, MTBE is the strongest smell at the pump. Livo recommends staying as far away from the nozzle as possible.

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[From the Wall Street Journal, Mar. 5, 1993]

OFFICIALS STUDY ANTIPOLLUTION GASOLINE FOR HEALTH RISKS

(By Robert Johnson)

A cleaner-burning gasoline blend that is one cornerstone of the nation's antipollution efforts is being investigated by the Environmental Protection Agency as a possible health threat.

Complaints, including headaches and nausea, by consumers in Alaska have already led to a ban of the most common form of so-called oxygenated gasoline in Fairbanks. Alaska Gov. Walter Hickel halted sales of the new fuel in December after environmental officials in Fairbanks received 120 complaints of illness during the first four weeks it was sold last November. Protesters paraded in cars draped in black crepe paper.

The EPA has received other reports of minor ailments from people refueling and motoring with oxygenated fuel in Colorado, Montana and New Jersey. The EPA and the federal Centers for Disease Control and Prevention are following up on consumer complaints.

The health complaints raise questions about the mandated use of oxygenated fuel as specified in the Clean Air Act Amendments of 1990. The oxygenate in question is called methyl tertiary butyl ether, or MTBE. EPA officials admit they were surprised to find MTBE in blood samples from people in Alaska—though they still aren't sure it is a health hazard. Federal investigators say they won't have any definitive answers to the health questions about MTBE for some time. The EPA says it hopes to have enough information by November, when the next period of mandated use would begin, to decide whether it needs to reconsider the use of MTBE.

The regulations requiring the use of oxygenated fuel took effect last fall at about the same time MTBE manufacturers concluded a long-term study showing a low incidence of kidney tumors in male rats exposed to high doses of MTBE.

Mary Smith, director of the EPA's field operations and support division, says, "We don't have a bottom line yet on the cancer issue. We're still studying whether it's a carcinogen"—a substance that produces cancer.

A preliminary report by epidemiologists at the CDC shows that the blood of several Fairbanks residents contained measurable levels of MTBE. The researchers say they aren't certain whether the gasoline's fumes and exhaust from vehicles burning the fuel cause anything more serious than temporary discomfort because long-term research on humans hasn't been done yet.

Officials at Arco Chemical Co., the biggest U.S. producer of MTBE, say its gasoline additive isn't a cancer threat to consumers. "The exposure level is just too low," says Larry Andrews, manager of toxicology at Arco Chemical, based in Newtown Square, Pa.

According to Mr. Andrews, the participants in the CDC study breathed air with roughly 100 parts per billion of MTBE, vs. the 3,000 parts per million of MTBE inhaled by rodents in the cancer study.

Arco Chemical, of which Atlantic Richfield Co. owns 83%, says that it isn't any surprise that MTBE shows up in minute levels in blood, but that it is baffled by the reports of headaches and nausea. The company says residents haven't complained in Denver and Las Vegas, where the additive has been used for several years. Arco Chemical is starting a study at Rutgers University to probe, among other things, the amount of MTBE inhaled by New Jersey commuters.

Though the existence of certain carcinogens in gasoline and concerns about the exposure of refinery workers to them aren't new, worries over the new methanol additive throw an unexpected wrench right into the middle of Washington's antipollution strategy. Under the Clean Air Act amendments, oxygenated gasoline, designed to reduce dangerous carbon monoxide emissions, became the wintertime standard—from Nov. 1 to Feb. 28—in 39 metropolitan areas that have unhealthy levels of carbon monoxide. The EPA estimates that 70% to 90% of carbon monoxide pollution comes from motor vehicles, and burning oxygenates produces lower levels of the poison.

Ironically, some of the same environmentalists who pressed for the law requiring MTBE use now say Congress may have moved too fast. "People shouldn't be exposed as guinea pigs," says David Doniger, an attorney at the Natural Resources Defense Council, in Washington. "Now, MTBE itself has become a pollutant."

To be sure, the criticism of MTBE is being met with considerable skepticism by some federal and local environmental officials. Says the EPA's Ms. Smith, who lives in the Washington area, "I fill my car with MTBE, and I haven't felt any ill effects." She says some motorists complain that gasoline containing MTBE smells bad, and they may be overreacting.

Moreover, say state clean-air officials in Alaska and Montana, many of the complaints that MTBE caused flu-like symptoms occurred during the middle of flu season.

The motives of some who object to MTBE may be at least partly economic. The petrochemical has one major competitor—ethanol, made mostly by refining corn. That pits the corn industry against petroleum refiners, who make most of the methanol used in MTBE. At stake is the wholesale market for oxygenated fuel, which ranged from $14 million to $16 million a day during the recent winter season, according to oil industry officials. MTBE has 70% share of the oxygenated gasoline market, with ethanol at 30%.

In Montana, a panel of physicians appointed to study complaints about illness from MTBE recommended recently that the sale of oxygenated fuel continue—so long as it's made from ethanol. But to the EPA's Ms. Smith, the request for ethanol-based oxygenated fuel "Is frankly a marketing issue. That's mainly because Montana is a big agricultural state."

Moreover, ethanol supporters are spreading the work that MTBE might be dangerous. "There very clearly could be a problem with MTBE," says Mike Byran, a spokesman for the National Corn Growers Association in St. Louis. The common stock of the nation's largest ethanol producer, Archer-Daniels-Midland Co., rallied briefly last week when a securities analyst highlighted the illness attributed in MTBE in Alaska.

Ethanol has long struggled for acceptance by motorists. As the chief ingredient of gasohol during the 1970s, ethanol was viewed as little more than a cheap, temporary substitute for gasoline. "Cars on gasohol just choked to a stop." says Jerry Levine, director of corporate studies at Amoco Corp., which makes no MTBE but buys it for its gasoline. He says many of the technical problems with ethanol have been solved by improving the mixture, but public acceptance still lags.

MTBE, in contrast, is generally considered an enhancer of engine performance. It has long been used as 2% to 3% of some gasoline mixtures to boost octane levels. At that level, MTBE gasoline doesn't have an unusual odor. But the gasoline formula to reduce carbon monoxide is 15% MTBE, and EPA officials say the higher concentration has a noticeably stronger smell.

Consumers have an economic motive to complain about MTBE, too. Adding it to gasoline raised the pump price 14 cents a gallon

in Alaska last winter, despite EPA assurances the increase would be only three to five cents. Gasoline containing ethanol costs roughly the same at the pump as MTBE. Anger over the higher prices caused by MTBE preceded complaints about it as a source of illness, say state environmental officials in Alaska.

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[From the Los Angeles Times, Oct. 4, 1993]

QUESTIONS OF HEALTH RISK CLOUD USE OF SPECIAL FUEL

(By Marla Cone)

As metropolitan areas across the nation are switching to a special winter blend of gasoline, federal researchers are unable to agree whether the highly touted fuel poses a health threat to motorists—especially in Alaska.

For almost a year, the U.S. Environmental Protection Agency has puzzled over why hundreds of Alaskans, and some other people scattered elsewhere, complained of headaches, nausea, dizziness and other minor health problems while refueling their cars with oxygenated gasoline when it was introduced last year. The complaints were so alarming in Alaska that its governor has refused to allow the fuel to be sold there this winter.

The gasoline is the cornerstone of a year-old national clean-air effort that has been widely lauded for reducing carbon monoxide, a dangerous gas in car exhaust. Each winter, 39 metropolitan areas that suffer excessive carbon monoxide pollution—including all of California, New York City, Baltimore, Seattle, Minneapolis and Philadelphia—must switch to the new gasoline.

Investigations into the safety of the gasoline, which contains a chemical called methyl tertiary butyl ether, or MTBE, have raised more questions about health risks than they have answered.

Two federal research agencies recently reported conflicting results, thrusting EPA Administrator Carol Browner into an uncomfortable role of either ignoring the uncertainties or overhauling an important, congressionally mandated clean-air program that affects 70 million people.

EPA's Office of Research and Development and Yale University concluded that the gasoline "is unlikely to be a substantial acute health risk" after tests that exposed people to MTBE, according to an Aug. 19 draft of an EPA report not yet publicly released.

But epidemiologists for the U.S. Centers for Disease Control found an apparent link between symptoms and MTBE after blood tests and surveys of some residents of Fairbanks, Alaska.

"EPA feels pretty comfortable that it is a safe, effective product. But different people looking at the same data are making different conclusions," said Phil Millam, EPA's regional air quality chief for the Pacific Northwest and Alaska.

Citing the uncertainties, Alaska Gov. Walter J. Hickel has requested an exemption from the oxygenated gas program. "It would be irresponsible to mandate the use of this fuel until the people of Alaska can be assured there is no serious increased health risk," he said in a letter to Browner a month ago.

Now, the EPA, which has been silent on the controversy, is under pressure to clarify its stance within a month; most areas will switch fuels on Nov. 1.

In California, service stations began early, pumping the winter blend as of Friday. State air-quality officials say they have no qualms because Californians reported no illnesses or health complaints when the new fuel was introduced last fall.

"We didn't see the same problem here that they suspect in other places," said state Air Resources Board spokesman Bill Sessa. "And even if [oxygenated gasoline] is a problem, the situation in California is far different than the rest of the country anyway."

Unlike most states, California service stations have vapor-control nozzles that eliminate up to 95% of refueling fumes, and the state's winter gasoline contains only one-third to one-half of the oxygenates found in fuels in other states.

"Exposures in other states are undoubtedly higher," Sessa said, "but whether they are high enough to pose a health risk is up to EPA to decide."

EPA officials say they are not seriously considering abandoning the program; they believe the health benefits outweigh the uncertainties. Oxygenated fuel has reduced the dangerous peaks of carbon monoxide, which occur largely in winter because of meteorological conditions, according to the agency's data.

The EPA, however, now is wrestling with whether to suspend the program in Fairbanks and Anchorage. Browner faces the sticky task of either imposing sanctions on Alaska or granting a special waiver even when most of her advisers believe the health concerns are unfounded.

Many EPA air quality officials believe the complaints in Alaska were generated by a bizarre mix of mass hysteria fed by widespread media reports and a deep resentment of the federal fuel mandate. Many Alaskans, they say, were eager to complain about oxygenated gasoline because it raised pump prices by 14 cents per gallon there, far more than anyplace else in the nation.

"It's a lot of hokum," one EPA official said of the illness complaints. "Can I totally discount it? No. It is mostly baloney? Yes."

Others in the EPA and the CDC, however, say Alaska's unusual arctic conditions may increase the amount of MTBE that people breathe. Most of the health complaints surfaced in Fairbanks, which has severe ice fogs and strong inversion layers that might concentrate fumes.

"To be honest, I have some concerns that price and press heightened the complaints in Alaska. But to be balanced, most of the testing we have done is a warmer temperatures, so there may be something to it in Fairbanks," said one top air-quality official at EPA headquarters in Washington, who asked to remain unidentified because the agency has not yet taken an official stance.

In their tests, EPA researchers exposed 37 healthy adults to MTBE for one hour at room temperature. Afterward, all 37 had MTBE in their bloodstreams, but medical tests detected no respiratory inflammation, eye irritation, headaches, lightheadedness or other symptoms, according to the EPA's report. Yale University repeated the tests on 43 others and also found no symptoms.

"Taken together, the EPA and Yale studies provide a consistent picture," the researchers' report says.

CDC researchers, however, tested 18 Fairbanks residents and found that the more MTBE in their blood, the more frequently they reported symptoms, especially headaches. Similar, although mixed, results were found when CDC tested 44 people in Stamford, Conn.

"In Fairbanks, we have concerns, because there are lots of people who told us about the problems they have been experiencing. But beyond that, we cannot generalize about other areas," Dr. Ruth Etzel, team leader of the researcher, told The Times.

"Headache was by far the most predominant complaint," she said. "Some also complained of dizziness and nausea. Some had sore throats."

Etzel, who heads the CDC's air pollution health branch, said blaming the complaints in Alaska on climate is just speculation because no one yet understands the possible risks.

"Until MTBE is fully evaluated in community-based studies, questions will remain as to its safety for widespread distribution and use," Etzel said in a letter to Alaska's environmental commissioner.

EPA officials, however, were angered by the letter. They call the CDC data questionable and say their own tests were more reliable because the subjects underwent health tests by experts, whereas the CDC relied on people's subjective, self-reporting of symptoms.

On the other hand, the EPA and Yale research projects have their own shortcomings. The researchers note in their report that they only tested healthy adults and "this leaves the question open about more subtle health risks, especially among susceptible" people who are sensitive to chemicals. They also conducted all their tests in 75-degree temperatures, not arctic conditions.

Nationally, a multibillion-dollar investment by oil and chemical companies is at stake. Although other compounds can be used to add oxygen to fuel, they are more costly than MTBE and switching would force major, expensive changes in the plants that produce the winter fuel.

Jack Hinton, a Texaco Inc. manager who chairs an American Petroleum Institute committee on MTBE, said the industry was "quite surprised" by the rash of complaints from Alaska.

Studies of industrial workers exposed to much more MTBE than are motorists detected no similar health problems. Hinton said. Also, the chemical has been added to wintertime gasoline in Denver and Phoenix since the late 1980s, and although some initial complaints surfaced there, no widespread illnesses or symptoms were reported.

"Predominantly, people in the industry come down on the side that [oxygenated fuel] is safe. But there is still an arctic question that hasn't been answered," said Hinton, whose company is one of four that provides the fuel to Alaska. "We want to provide a safe, usable product to our motoring public, so we're very interested in resolving this.'

FUEL STANDARDS

Metropolitan areas that violate the health standard for carbon monoxide must switch to a special oxygenated gasoline during late fall and winter, when carbon monoxide pollution peaks. Most areas must comply with the federal law as of Nov. 1, although California began using the fuel Friday. Here is a list of the areas:

Alaska: Anchorage, Fairbanks.

Arizona: Phoenix.

California: Statewide.

Colorado: Colorado Springs, Denver-Boulder, Ft. Collins-Loveland

Connecticut: Hartford-New Britain-Middletown.

Maryland: Baltimore.

Massachusetts: Boston-Lawrence-Salem.

Minnesota: Minneapolis-St. Paul, Duluth.

Montana: Missoula.

Nevada: Las Vegas, Reno.

New Mexico: Albuquerque.

New Jersey/New York: New York City metropolitan area including northern New Jersey; Syracuse.

North Carolina: Greensboro-Winston-Salem-High Point, Raleigh-Durham.

Ohio: Cleveland-Akron-Lorain.

Oregon/Washington: Grant's Pass, Klamath County, Medford, Portland-Vancouver, Seattle-Tacoma, Spokane.

Pennsylvania area: Philadelphia-Trenton, N.J.-Wilmington, Del., metropolitan area.

Tennessee: Memphis.

Texas: El Paso.

Utah: Salt Lake City, Provo-Orem.

Washington, D.C.: metropolitan area.

WORKER SAYS MTBE CRIPPLED HIM

(By Sasan Farrar)

Life changed for Brian Ahern of Fairbanks, Alaska, the day he was doused by gasoline with MTBE in it.

Months after his Nov. 16 accident, the 30-year-old told us he can't stand for more than 20 minutes before his legs give out. He walks with a cane and hasn't driven since January.

Ahern says he suffers from memory lapses, headaches and has problems concentrating. A former small-engine mechanic, he says he can't even change the spark plugs in his snowmobile because he can't remember what to do.

Mary Lamielle of National Center for Environmental Health Strategies in Voorhees, N.J., says Ahern is one of about 200 to complain to non-profit group about MTBE.

State of Alaska has asked EPA to suspend oxy-fuels program planned for Anchorage and Fairbanks, after wide-spread health complaints involving oxygen additive MTBE.

Most complaints cite less serious flu-like symptoms from exposure. But Fresno, Calif., jobber Bob Goeringer earlier told us he's convinced a life-threatening allergy attack he suffered this year was linked to MTBE (OW5/17).

Ahern's incident is the second critical MTBE complaint we've heard of. Ahern was replacing a fuel line on a forklift while working for a Kawaskai dealership when the line split in several places and began spraying him with fuel.

MTBE NIGHTMARE . . .

To stop the leaks, he says he had to reach in toward the engine where he was sprayed in the face and head. His jacket and shirt were drenched in the process and his jeans got soaked while he worked.

Ahern had no extra clothes with him so he couldn't change. After 15 minutes, Ahern says he started to feel light-headed. An hour later he felt sick.

He left work a half hour early, driving four blocks home on his snowmobile. He can't remember reaching his apartment, but says his wife found him stumbling up the stairs.

She called the hospital and was advised to get him out of his clothes and into the shower. He figures he wore his fuel-drenched clothes for about two hours.

Ahern didn't feel better that night and was taken to the emergency room where he passed out. He was given oxygen and sent home.

Ahern's former employer, Alaska Fun Center, confirms he was hospitalized, but declined further comment.

He says he gradually grew better over the next week. He found a new job at a Yamaha and Suzuki dealership, but weakness in his legs, migraines and concentration problems forced him to quit after Jan. 4.

Ahern's doctor did not comment by presstime. Ahern filed for workman's comp, but Wausau Insurance refused to pay, claiming his symptoms weren't caused by the accident.

Ahern told us he had to go on welfare to support his three boys. Claims department for Wausau Insurance, reached in Beaverton, Ore., refused to comment.

Big hurt: "Not being able to take care of my kids the way I used to," Ahern says. Also, suspicion that people don't believe his story.

"After a while, you start to question yourself," he says.

MARKETERS COLLECT MTBE HEALTH HORROR STORIES

Fresno, Calif., jobber Bob Goeringer tells Oil Week he's convinced a life-threatening allergic reaction he suffered this winter was linked to increased levels of MTBE in gasoline.

Goeringer's story, along with complaints from 15 to 20 other jobbers, convinced California Independent Oil Marketers Association to survey members about MTBE-related health problems.

Surveys will go out later this month.

Meantime, another California jobber told us he may provide gas masks to workers next year after receiving complaints of headaches and nausea from virtually all his truck drivers.

Jobber, who asked not to be identified, says workers complained of peeling skin after contact with MTBE fuels.

Severe allergy: Goeringer, Visa Petroleum, noticed sinus congestion and draining in November.

By December and through January and February he suffered from severe asthma to the point he experienced difficulty breathing. He also lost his voice.

Goeringer says he took prednisone, an anti-inflammatory with severe side-effects, for four months to try to clear up his lungs. He got off the drug a couple of weeks ago and most symptoms finally subsided.

Though Goeringer doesn't work directly with fuels, he's convinced his problem was caused by MTBE fumes in the atmosphere.

Symptoms came on about the same time new regs required refiners to add MTBE to gasoline.

"What else could it be? he asks. "I've lived in this body for 67 years and I've never felt anything like it," he told us.

Also, Goeringer says, doctors at Las Vegas Clinic told him they found elevated levels of petroleum chemicals and sulfur when they tested him. Clinic did not return our call by press time.

Recent tests—funded by the oil industry and producers of MTBE—have concluded that for normal, healthy, young adults, there are no significant health risks under temperate conditions.

First, let it be known that those so-called tests were funded by the oil industry and producers of MTBE.

Second, how many people and how frequently fall under the scope of these tests' assurances? What about those of us who are not normal, healthy, young adults? What do they mean by temperate conditions?

Thus, while EPA is prepared to accept these tests, they do not answer questions about subpopulations that may be more sensitive to chemical exposure, including children and the elderly.

Moreover, the tests which were conducted did not address concerns raised about MTBE exhaust emissions that the Center for Disease Control identified as a potential concern.

Barry Grossman, founder of Oxy-Busters in New Jersey, has stated:

"[w]e feel they're [bureaucrats] down-playing the extent to which people who are sensitive to it are affected by it. We're going to walk around the next seven months with headaches and other ailments.

I agree. The bureaucrats are downplaying the potential concerns. They would like this issue to go away.

But as long as EPA insists that there should be no alternatives to methanol based ethers, as long as ethanol is banned from clean air markets, there will continue to be legitimate questions from certain subpopulations that are particularly sensitive to MTBE that want and need an alternative.

Earlier this month, Congress agreed that more study was needed before an MTBE mandate was put in place in Alaska. Alaska Governor Walter Hickel stated:

[i]t would be irresponsible to mandate the use of this fuel (MTBE) until the people of Alaska can be assured there is no serious increased health risk.

My only question is why just Alaska? What about the consumers in New Jersey, in Montana, in Connecticut, who have similarly complained about the health effects of MTBE. Why don't we care about them? Why won't we assure now that consumers in these States won't be forced to use MTBE beginning in 1995 when the RFG program commences.

Unless we act now to stop EPA's MTBE mandate, we'll be back in the summer of 1995 suspending this important program in States all across the country because there will be alternatives to MTBE in the marketplace.

GROUNDWATER

Every day in the United States, thousands of gallons of gasoline are spilled or leaked from storage facilities, contaminating surrounding environments, including aquifers.

A recent paper published by the University of Oklahoma concludes that the health and environmental risks associated with MTBE have not been fully evaluated.

The report stated that MTBE appears not to biodegrade once released into the environment, creating a potentially dangerous environmental/public health concern.

In sharp contrast to MTBE, other oxygenates, including ethanol, biodegrade rather quickly.

A University of Oklahoma study found that after 249 days, there was no evidence of the anaerobic destruction of MTBE, indicating that it may never biodegrade.

Another study has found that fish absorb MTBE from the water into their body. The fish concentrates the MTBE about 1.5 times, for example, if the water is 10 ppm MTBE, the fish would contain 15 ppm.

The RFG program is expected to create a market for between 400,000 and 700,000 barrels per day of oxygenate. If MTBE is the only oxygenate used, and ethanol is precluded, the potential for groundwater contamination is increased accordingly.

COST

If MTBE is mandated for use in the RFG program, consumer costs will rise dramatically.

There are two reasons cost will increase—insufficient domestic MTBE supply and lack of competition.

In every area that implemented an oxyfuel program last year where MTBE has had a marketplace monopoly, consumer gasoline costs rose. I have press reports demonstrating the cost increases in some of these areas:

Alaska—14 cents per gallon.

New York/New Jersey—8–10 cents per gallon.

Montana—10–12 cents per gallon.

Demand for MTBE created by a marketplace mandate could create a shortage of at least 100,000 barrels per day, and up to 400,000 b/d with opt-in areas. Such a shortage will drive up profits for MTBE producers and increase imports.

Mr. President, well over 50 percent of all MTBE produced domestically is controlled by one major oil company. Mandating the sole use of MTBE in the RFG market will create a powerful monopoly for this one company. How fuel neutral is that?

ENERGY SECURITY

As I've stated, there will simply be insufficient domestic supplies of MTBE to satisfy an MTBE mandate in RFG. This will require increasing amounts of imported products. MTBE imports for just the first 6 months of 1993 exceeded 178 million gallons.

Imports of MTBE will continue to rise to more than 400 million gallons this year because of the 1993–94 oxyfuel season. By 1995, industry estimates that more than half of all MTBE requirements will be met with imports.

Imported methanol will also be necessary to satisfy domestic MTBE production. More than 800 million gallons of imported methanol will be necessary each year to satisfy growing domestic MTBE.

From virtually every angle, an MTBE mandate makes little sense, and certainly poor public policy.

It will stifle economic growth across rural America, costing jobs and investment in domestic ethanol production.

It will increase the cost of the RFG program to consumers by reducing available oxygenate supplies and curtailing competition.

It will increase our dependence on imported energy.

And it raises serious public health and environmental questions that can only be addressed by providing marketplace alternatives.

President Clinton needs to be reminded of his commitment to increase ethanol's use to the people of America.

He needs to pay attention to the Members of Congress and Governors from States all across the country that want competition, want consumer choice, and want ethanol in this market.

He needs to get a handle on his Environmental Protection Agency, with its decidedly antiethanol bias, and get that Agency to start working cooperatively with the ethanol industry to find solutions to problems instead of acrimony.

And he needs to decide this issue, once and for all, so that ethanol's role in this important market can be assured and expansion, job creation, and investment in the domestic ethanol industry can move forward without further delay.

I ask unanimous consent to print in the RECORD letters written to the President.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

U.S. SENATE,
*Washington, DC, October 28, 1993.*

The PRESIDENT,
*The White House, 1600 Pennsylvania Ave., Washington, DC.*

DEAR MR. PRESIDENT: Who in your White House is in charge of your ethanol policy, i.e., ethanol's role in the Clean Air Act's Reformulated Fuels Program? I heard that one White House staffer reportedly dismissed the ethanol issue because "the only ones supporting ethanol are Republicans like Bob Dole and Chuck Grassley."

It is inconceivable that Democrat Senators and Congressmen have failed to draw your attention and energies to this problem.

In fact, it is inconceivable that your White House did not make this a top priority from day one. Little more than a year ago, at the "Harkin/Lloyd-Jones Fall Fest" in Indianola, Iowa, you attacked President Bush for not doing enough for ethanol. More importantly, you promised to "bring the EPA and the Agriculture Department and all the people together. We will do the research we need to hammer out the difficulties here. We'll solve it and we'll use ethanol as part of our national energy security future."

Mr. President, I have written to you twice and to Vice President Gore once urging your resolution of this problem, and offering my assistance. Governors—both Democrat and Republican—from all over the country have written to you as well, but have not received an answer.

In the meantime, EPA bureaucrats move forward toward implementing a policy which, for all practical purposes, will ban the use of ethanol, while virtually mandating MTBE for the Reformulated Fuels Program. This is incredible! Congress just gave Alaska a waiver because MTBE is making motorists and gasoline attendants sick with headaches, nausea, vomiting, etc.

Time is running out. Your help is needed immediately. Once again, I stand ready to be of any assistance that I can.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senator.*

U.S. SENATE,
*Washington, DC, November 5, 1993.*

Mr. DAVID GERGEN,
*Counselor to the President,*
*The White House, Washington, DC.*

DEAR MR. GERGEN: We are requesting your assistance in an issue of tremendous importance to rural America—the use of ethanol in the Clean Air Act Reformulated Fuels Program (RFG). Ethanol has enjoyed widespread bipartisan support for fifteen years. It is a domestically produced renewable fuel that creates jobs and economic development across the Midwest as grain demand increases to meet ethanol production requirements.

The importance of this issue is reflected by the considerable attention it received during last year's Presidential elections. We are writing to you today because the Clinton Administration has not implemented the President's promise "to bring the EPA and the Agriculture Department and all the people together. We will do the research we need to hammer out the difficulties here. We'll solve it and we'll use ethanol as part of our national energy security future."

Fuel ethanol is extremely important to the vigor of American agriculture. More than 400 million bushels of grain were used in the production of ethanol last year, with each bushel yielding approximately 2.5 gallons of ethanol.

Furthermore, the General Accounting Office concluded that the increased use of ethanol would reduce farm subsidies by $1 billion per year, and would increase farm output by $2.5 billion by the year 2000. These developments would create more than a million new jobs and net the Federal budget between $3.9 and $4.8 billion.

The potential for rural economic development created by increased ethanol demand was critical to our support for the Clean Air Act when it was passed in 1990. That bill required the addition of oxygenates, such as ethanol, in reformulated gasolines beginning in 1995. Importantly, when we wrote those provisions, we intended there to be free and open competition between the available oxygenates. We believed, then, and do now, that a competitive oxygenate market is essential to controlling costs from this program and assuring consumer acceptance.

Unfortunately, EPA's proposed program creates a virtual mandate for the use of ethanol's marketplace competitor—methyl tertiary butyl ether (MTBE). MTBE is a methanol-derived chemical produced by the major oil companies. This is an unacceptable situation politically. But, more importantly, it would have very negative public policy ramifications if left unchanged.

First, Congress wrote the RFG program to be a tool for states to use to reduce ozone pollution. With regard to ethanol, EPA has ignored this congressional mandate and determined the role for ethanol blends based solely on the mass of its emissions. Such an approach by its design ignores the overall air quality benefits of ethanol, including reduced carbon monoxide, an ozone precursor, and the reduced ozone-forming potential of ethanol emissions.

Second, it is important to recognize that the debate on this issue has been polarized by the competitive motivations of all parties, making a rational discussion of the marketplace and environmental issues almost impossible. The oil industry produces and profits from the use of ethanol's marketplace competitor—MTBE, a methanol-based chemical that will be increasingly imported from the Middle East. The ethanol industry

and major farm organizations have suggested that ethanol should be allowed to be used in RFG "without restriction," while environmental organizations want ethanol use to be restricted to only that of an ether.

Earlier this year, the Council of Great Lakes Governors attempted to bring some objective analysis to this debate by commissioning a study to determine the actual ozone effects of ethanol and MTBE. In short, the study concluded that there was virtually no difference in ozone air quality when either ethanol or MTBE is added to the same reformulated base gasoline. More than 150 Members of Congress and 12 Governors have written to President Clinton requesting that this analysis be used to find an environmentally sound and technically based solution to this issue.

To resolve this problem, we would suggest the following;

1. Promulgate EPA's original Reg-Neg proposal, but affirm that 10-percent ethanol blends will be certified as RFG pursuant to the authority granted by the Certification Equivalency provision described in Section 211(k)(4)(B) under the following conditions:

Only 10-percent blends (3.5 percent oxygen) are used;

Oxygen credits cannot be accumulated or traded for ethanol blends certified under this provision;

The ethanol must be added to a reformulated gasoline blendstock that has been certified for use with 11-percent MTBE; and

The fuel blend meets the "no net NOx" and toxic reduction requirements of Section 211(k)(3)(B).

2. Modify EPA's MOBILE Guidance document to the states such that the mass VOC emissions from 10-percent ethanol blends certified under Section 211(k)(4)(B) are deemed equivalent to those of MTBE for the purpose of calculating Section 182 reasonable further progress requirements.

The effect of these two initiatives will be to allow both 10-percent ethanol and 11-percent MTBE blends, which have been determined to have equivalent ozone effects, to compete in the reformulated gasoline market with appropriate restrictions to preserve the environmental objectives of the Clean Air Act. It will allow the regulatory process to move forward. Furthermore, it will encourage states to opt in immediately—states which otherwise have been reluctant to adopt a reformulated fuels program that bars ethanol. Moreover, it will reconcile the ozone equivalency of these two oxygenates with EPA's emission-driving program and not penalize states or industries trying to meet their Section 182 requirements.

David, this issue needs to be resolved. Already too much time has been lost. A favorable resolution of this issue would allow expansion in the ethanol industry to resume, creating tremendous employment and economic investment across the Midwest at a time when such a stimulus is desperately needed. Moreover, assuring competition in the oxygenate market will reduce the cost and increase consumer acceptance of the RFG program.

We need your assistance in getting this resolved. Please let us know what we can do to be of assistance.

Sincerely,

RICHARD G. LUGAR,
*U.S. Senator.*
CHARLES E. GRASSLEY,
*U.S. Senator.*

UNITED STATES SENATE,
*Washington, DC, November 24, 1992.*

President-Elect BILL CLINTON,
*State Capitol, Little Rock, AK*

DEAR MR. PRESIDENT-ELECT: I appreciated your communication of November 4 to me expressing your interest in working together in the weeks and months to come. There is one issue that I would like to raise now that is of considerable importance to our rural economy, jobs, and agriculture. That issue is your position and intentions with regard to President Bush's solution to the problems that had been hindering ethanol's participation in the reformulated fuels program of the Clean Air Act.

I am enclosing a copy of the October 12, 1992, article from "U.S. Oil Week" which includes a number of quotes from your chief energy policy director, Bill Burton, Several factually incorrect statements regarding this issue and President Bush's solution are attributed to Mr. Burton, and I hope none reflect your position.

Mr. Burton should realize that the Negotiated Rulemaking Act that codifies the "reg-neg" option does in no way restrict the rights of agencies or parties found under the Administrative Procedure Act. It is entirely up to an agency whether or not to utilize a "reg-neg" process, or for that matter, to publish as a proposed or final rule the consensus of the participants to any reg-neg proceeding.

Nor do participants of a "reg-neg" forfeit their rights. Moreover, strong objections were raised during EPA's public comment period not only by virtually every ethanol producing company in the nation, but also the American Agriculture Movement, National Farmers Organization, National Farmers Union, National Grange, American Farm Bureau Federation, National Corn Growers Association, National Pork Producers Association, National Grain Sorghum Producers, National Wheat Growers Association, National Cattlemen's Association, National Barley Growers Association, Corn Refiners Association, Renewable Fuels Association, and 22 State Corn Grower Associations.

Dozens of Senator and Congressmen, including Vice President-Elect Al Gore, felt strongly that the EPA's "reg-neg" proceedings were moving contrary to Congressional intent and were undermining the role of ethanol in the reformulated fuels program. Enclosed is a copy of a letter signed by 27 Senators expressing these concerns, which unfortunately, went unheeded by EPA and its "reg-neg" participants.

The significance of our concern about EPA's use of the "simple model" is that it barred the use of good science that would prove that the use of ethanol will reduce ozone, not increase it, in ozone non-attainment areas. By the time the "complex model" would have been utilized, MTBE (much of it originating from overseas) would have locked ethanol out of the reformulated fuels market.

A study conducted by the National Corn Growers Association in 1990 found that the increased production of ethanol resulting from the Clean Air Act could produce 35,000 jobs in the State of Iowa alone. The hope for these jobs, along with the largest new market for corn, has been put on hold because of concerns that you will overturn President Bush's solution.

I am asking that you set the record straight so that ethanol producers around the country may proceed immediately with their plant expansion construction. Therefore, I urge you first, to announce that as a minimum, you will implement President Bush's solution. Second, I urge you to announce that you will improve this solution by building upon it with additional pro-ethanol initiatives such as the Governors' Ethanol Coalition proposal you supported last June which would guarantee ethanol a 50 percent market share of oxygenate blend stock by 1997.

I assure you that I reciprocate your desire to work together in the coming months to tackle our nation's problems. I hope that this ethanol issue will be the first of many that we can successfully resolve.

Sincerely,

CHARLES E. GRASSLEY
*United States Senator.*

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U.S. SENATE,
*Washington, DC, May 18, 1993.*

Hon. ALBERT GORE, Jr.,
*The Vice President of the United States, Washington, DC.*

DEAR MR. VICE PRESIDENT: I am pleased that you will be meeting with a number of Democrat Senators to discuss the role of ethanol in the Clean Air Act's Reformulated Fuels Program.

I commend you for your support for ethanol as a Senator. As you can see from the attached copy of our July 31, 1991 letter to EPA's Administrator, William Reilly, you joined 26 other Senators warning EPA that its "reg-neg" proceedings were moving contrary to Congressional intent and were undermining the role of ethanol in the reformulated fuels program.

Unfortunately, EPA and its "reg-neg" participants chose to ignore our letter, and subsequently, have taken the apparent position that only the participants, and not Congress, have the authority to determine Congressional intent.

Don't you agree that the purpose of the Reformulated Fuels Program was to reduce ozone, not volatile organic chemicals? The best science must be used by EPA, and this means science that accounts for ozone forming potential (i.e., atmospheric photochemistry) in the promulgation of these rules. This is a far more accurate indicator of actual ozone forming potential than the mass base accounting system currently proposed by EPA.

A great deal is at stake for rural America. By one estimate, the Clean Air Act could create 35,000 jobs in Iowa alone. But if the anti-ethanol forces of the oil industry and a few misguided environmental interests prevail, American corn farmers could lose as much as $1.9 billion in cash income by 1997, while government deficiency payments for corn could increase by $3.3 billion.

In view of the BTU tax, the barge tax, the farm program cuts, and the EPA ethanol problems, I cannot recall a time when rural Americans and farmers were hit with so much potentially devastating government policy at once. Your assistance in turning this around is crucial. Let me know if I can be of assistance.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senator.*

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U.S. SENATE,
*Washington, DC, February 10, 1993.*

The President
*The White House*
*1600 Pennsylvania Ave., Washington, DC.*

DEAR MR. PRESIDENT: I am writing to offer whatever assistance is appropriate with regard to the problems your administration is having with the publication of EPA's proposed ethanol reformulated fuels rules.

These proposed rules should be released for public review and comment immediately.

The ethanol reformulated fuels solution developed by the Bush administration is critical to farmers, rural workers, and the general health of our rural economy. By one estimate, the Clean Air Act could create 35,000 jobs in Iowa alone. And if these rules are not adopted, corn farmers could lose as much as $1.9 billion in cash income by 1997, while government deficiency payments for corn could increase by $3.3 billion.

Rural Americans are becoming understandably anxious by the mixed signals about your commitment to ethanol in the reformulated fuels program. The concern surfaced before the election when your chief energy policy director, Bill Burton, attacked the Bush ethanol solution as a betrayal of the oil industry.

The Bush administration worked hard during it's final two months to honor its promise to farmers and rural Americans. OMB and EPA officials coordinated their efforts closely in order to finish these proposed regulations.

Regrettably, your administration prohibited these proposals from being made public. This followed assurances to Democratic Senators that the rules would be published immediately. But now we learn this past weekend this will not be the case.

It seems strange that in view of the close coordination between EPA and OMB officials in developing these proposals, that now OMB is claiming it did not perform an adequate review.

What I recommend is that you release these proposed rules to the public immediately, and treat them as a starting point—a bare minimum as to what the Clinton administration will do to increase the use of ethanol in reformulated fuels.

Once published, it will give you the opportunity to carry out your campaign promise to implement as President, the Governor's Ethanol Coalition proposal which mandates the ethanol's share of the oxygenate blend stock grow to 50 percent by 1992.

I stand ready to assist you in implementing your promised support of the Governor's plan.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senator.*

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah [Mr. BENNETT] is recognized for 4 minutes.

## SENATOR HATCH EXONERATED

Mr. BENNETT. Mr. President, I rise on a matter totally unrelated to those we have been discussing but one of which I think both the Senate and the country should be aware.

Some time ago my senior colleague, Mr. HATCH, came under heavy press barrage and became the subject of many rumors which caused him to ask the Senate Ethics Committee to examine those rumors, to make sure there was no substance to them.

I understand that last night the Ethics Committee completed its examination and by a unanimous vote exonerated Senator HATCH of any wrongdoing. I think we should pause on this occasion to recognize, first, that the investigation came as a result of Senator HATCH's request, not because of anybody else accusing him.

Second, the investigation is now completed and Senator HATCH has been given a unanimous clean bill of health.

I have always maintained my faith in Senator HATCH's integrity. We on this floor have heard him demonstrate his outrage at some of the excesses that the media have gone to. It is a time of great rejoicing, at least in this Senator's office, that the cloud of suspicion has been lifted from Senator HATCH, as he himself knew it would be when he asked for this investigation in the first place.

So I call the attention of the Senate to this action on behalf of the Ethics Committee and extend my personal congratulations to Senator HATCH that this matter is now firmly and solidly and officially behind him. I thank the Chair.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

### PASSAGE OF THE NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. PELL. Mr. President, last week, I announced that I would support the North American Free-Trade Agreement. Now that the agreement has come to the Senate, I would like to reiterate that support and express my belief that with its passage, we are taking an important and historic step forward in securing our country's economic future as well as the hemisphere's stability and progress toward democracy.

Since I have already outlined in some detail for the RECORD the reasons I support NAFTA, as well as some of the reservations I have about it, I will not do so again here. But I would like to say a couple of things regarding the manner in which this debate was conducted and to my friends in the labor community who have expressed their opposition to this agreement.

First, I commend all of those in the Congress who have maintained a level of decorum befitting the institution while debating this complex, difficult, and emotional issue. While the rhetoric from those outside of the Congress has often been extreme and I might say, unseemly, the debate here, though intense, has been informed and civil.

Second, for those in the labor community who have argued with passion against this agreement, I understand the anxiety that you feel. As one who has been involved in fighting for and voting for the gains that we have been able to achieve for the American worker, I know how hard it has been to establish in law basic concepts of fairness, safety, and equity in the workplace. I know the struggle that working men and women have gone through to get decent compensation for their work and security in their employment.

Many believe that NAFTA threatens these gains and indeed the very existence of hundreds of thousands of U.S. jobs. I am confident that U.S. labor standards are not threatened by NAFTA and also that we will actually experience a net job gain. For that reason, I support NAFTA and believe that American workers stand to gain from the agreement. Nevertheless, I salute those in the labor community who have been steadfast in their opposition to NAFTA as I believe they are honestly doing what they believe is necessary to represent the interests of working people. While I do not agree with them here, I look forward to continuing to work with them in the future on other matters.

In conclusion, I welcome this historic day in the Senate as we consider NAFTA. I applaud those who have worked so diligently over the years to bring this agreement to fruition and particularly salute President Clinton and Vice President GORE, without whose support and articulate advocacy in these closing weeks, the United States would have lost the opportunities that NAFTA presents. I believe that with NAFTA's passage, we will embark on a new era in hemispheric relations and in the process embrace with confidence the coming age of the global economy.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EMBARGO ON LIBYAN OIL

Mr. KENNEDY. Mr. President, before we adjourn, I hope the Senate will approve Senate Resolution 165, which I am about to speak to, and I am very optimistic that it will. It will be an extremely important action of the U.S. Senate and the American people.

Mr. President, when Senate Resolution 165 asks the President to take all appropriate steps to see that the Government of Libya complies with U.N. resolutions requiring it to turn over the suspects indicted in the terrorist bombing of Pan Am flight 103 in December 1988. The resolution specifically calls for the imposition of an embargo on Libyan oil, if that is what it takes to obtain Libyan compliance, and that is what it may well take.

I am pleased to be joined in this effort by the bipartisan group of Senators who are sponsors of this resolution and who have been vigorous supporters of stronger action against Libya.

In particular, I want to commend the leadership of Senators LAUTENBERG,

MOYNIHAN, D'AMATO, HELMS, MITCHELL, PELL, KERRY, BRADLEY, DODD, FORD, LEVIN, LIEBERMAN, SASSER, and WOFFORD.

Nearly 5 years ago, on December 21, 1988, Pan Am flight 103 was blown out of the sky over Lockerbie, Scotland. The flight had originated in Frankfurt, Germany, after a stop at Heathrow Airport to change to a larger plane for the final leg of the flight to the United States. The bomb went off an hour after the plane had taken off from Heathrow en route to New York City. It was bringing a large number of Americans home for the Christmas holidays, which made the tragedy even more despicable and poignant.

Tragically, 270 people from 21 countries, including 189 Americans, died in the attack. That bombing will go down in history as one of the worst terrorist atrocities of our time.

Then, 2 years ago this month, after an extensive international investigation, United States and British law enforcement authorities cracked the case. The bomb was apparently placed in a suitcase on an Air Malta feeder flight from the island of Malta to Frankfurt, then transferred to Pan Am flight 103A and then, in London, transferred to Pan Am flight 103. Two Libyans were identified as directly involved in placing the bomb on the feeder flight and were indicted for the crime—the former manager of the Malta office of Libyan Arab Airlines, and a senior Libyan intelligence official.

Ever since then, we have been trying to bring these two Libyans to justice. But the Government of Libya has consistently and persistently stonewalled all of these efforts. It is time to get serious, and it is important that the Senate be on record in support of the strongest possible economic sanctions against Libya, including an oil embargo.

In March 1992, the U.N. Security Council adopted a resolution imposing modest economic sanctions because of Libya's failure to turn over the suspects indicted for the Pan Am bombing, as well as Libya's refusal to cooperate in France's investigation of the 1989 bombing of a French airliner over Chad, which killed 171 people, including 7 Americans.

The 1992 sanctions prohibited air traffic to and over Libya. They banned the supply of aircraft parts to Libya. They banned arms sales to Libya. And they reduced Libya's diplomatic representation in other countries. These were limited sanctions. They have been in effect for more than a year, and they are clearly insufficient to bring about the surrender of the two suspects.

Last week, the Security Council adopted a further resolution imposing additional sanctions, which will go into effect on December 1. The new sanctions include a limited freeze on Libyan assets in other countries, and a ban on the sale of certain oil producing equipment and supplies.

All of us hope that these added sanctions will be successful. But they fall well short of an oil embargo, which is the step that many of us believe may well be necessary to bring about the surrender of the suspects.

The purpose of this resolution is to send a clear message to the international community that President Clinton has the solid support of the United States Senate for much stronger future sanctions against Libya, including a full embargo on Libyan oil.

We are all aware of the economic impact that an oil embargo might also have on some nations in Western Europe. Clearly, we must work with Italy, Greece, Germany, Spain, and other countries to ease any burden that an oil embargo will place on them. Obviously, in aiming at Libya, we do not intend to hit our allies. I am confident that when Libyan terrorism is the issue, the world community can find a way to do without Libyan oil.

In 1982, the United States unilaterally imposed our own oil embargo against Libya. That step was the culmination of a series of incidents and confrontations that escalated when Libya was put on the State Department list of terrorist nations in 1979. That escalation included the looting of the United States Embassy in Tripoli in 1980, the closing of the Libyan Embassy in Washington in 1981, and an attack on United States Air Force planes by Libyan jets in 1981, in which two Libyan jets were shot down.

Our 1982 oil embargo against Libya had a modest economic impact on the United States—5.3 percent of our oil imports and 2 percent of our oil came from Libya, and some United States firms were disadvantaged. But we believed, and we continue to believe, that it was essential to impose the embargo at that time against the renegade regime of Colonel Qadhafi in Libya.

Qadhafi's support for terrorism has continued over the years. In 1986, two American servicemen were killed in the bombing of the La Belle disco in Berlin. The Reagan administration implicated Libya in that attack and bombed Libya in retaliation. Also in 1986, in response to terrorist attacks at the Rome and Vienna airports in 1985, President Reagan authorized further unilateral trade sanctions against Libya.

This resolution demonstrates our resolve to the Government of Libya. The suspects in the bombing of Pan Am flight 103 must be turned over to the United States or Scotland for trial. Justice must be done and must be seen to be done. No amount of delay will relieve Libya of its responsibility. Libyan terrorists cannot murder innocent civilians and think that, if enough time passes, or if enough compensation is offered, we will forget about their crime.

The families will not forget, and America will not forget. We will not rest until all those responsible for this abominable terrorist atrocity are brought to justice. We owe nothing less to the families who lost loved ones on Pan Am flight 103. We owe nothing less to our country in the worldwide battle against international terrorism.

Our resolution deserves the unanimous approval of the Senate.

I thank my colleagues for their support.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT OF THE CHIEF OF THE FOREST SERVICE

Mr. CRAIG. Mr. President, for the entire history—starting in 1905 until now—of the U.S. Forest Service, they have developed a way of elevating their leadership from within by using a competitive process based on merit and experience. Since the Senior Executive Service was established, the Chief of the Forest Service has been selected from the top ranks of the Forest Service executives qualified under the SES Program. In other words, all Chiefs of the U.S. Forest Service since Gifford Pinchot, a fellow who history says was responsible for working to create the Forest Service with Teddy Roosevelt, have always been from within the quality ranks of the Service itself.

The Clinton administration's political appointment of Jack Ward Thomas as the new Chief of the Forest Service sets an extremely dangerous precedent for future management of the 191 million acres this Nation calls its public forests and grasslands.

The position of the Chief was made political despite the vehement opposition of over 70 supervisors—that is the leadership across the country of the Forest Service—from Republican and Democrat Senators and Representatives who called the President in a bipartisan way and asked that he not do this, from a former Chief, Max Peterson, who many of us know here, and from a large list of current Forest Service employees.

The administration now claims they are going to have to rely on science, and that they made their decisions based on science. Most certainly, they are arguing, they did not make it on politics. And yet, by their own admission and by the establishment of this precedent, they have chosen a political way of making this appointment and creating a major blow to the employees who have always been reluctant to deal in politics because they are professional people we have hired in our Government to manage our public lands

and our public forests. The kind of demoralization that is now going on inside the U.S. Forest Service is yet to determine the reputation and the quality of that agency because this administration has decided they want to make it a political process.

To compound the confusion that many of us now have, on November 16, Secretary Espy created an independent Forest Service law enforcement organization which will report only to the Chief. Perhaps unknowingly, the Secretary has created what I think is a potential monster. No longer will the law enforcement program be integrated on a field-program-to-field-program basis as it relates to recreation and fire suppression and timber management. No longer will law enforcement activities be coordinated for the greater accountability of anyone outside of Washington, DC.

I predict this law enforcement group, armed with its new-found power and autonomy, will disrupt the programs of the Forest Service, damage the cooperative relationship that the Forest Service has with local counties and entities of government that it must associate with out in our public-lands States, and intimidate district rangers and Forest Service investigators who were early on charged with that responsibility.

In creating a separate law enforcement organization, Secretary Espy ignored the 1990 report prepared with a cross-section of Forest Service employees from all organizations and levels as it related to their conclusions about how law enforcement inside the Forest Service organization and on forested lands ought to go. The "Future Agenda for Law Enforcement," which was established as an internal document of high quality, was largely ignored. The Senate Agriculture Committee, on which I serve, which has oversight of the Forest Service, has not been afforded the opportunity to comment on these major reorganizational shifts—the Chief and the law enforcement efforts. No hearings have yet been held and the committee has received scant information as to these points of major change.

It would appear that the Secretary's announcement was deliberately timed just in advance of the holiday recess to preclude any immediate congressional action for these purposes.

Yesterday, I introduced legislation cosponsored by other Senators that says in essence if you are going to politicize the position of the Chief, then it ought to be a political appointment that would be confirmed by the Senate, as all other major political appointments are done.

On October 21, Senator HATFIELD, myself, Senator WALLOP, and Senator BURNS, wrote the Secretary urging that he not do this and that he not politicize the position of the Chief.

Well, he ducked and blinked for just a short time by creating a short-term position, and then last week, of course, reached in and created a political position in the form of Jack Ward Thomas as the new Chief.

In light of the foregoing, it seems particularly inconsistent that Secretary Espy's draft of legislation to reorganize the USDA makes no mention of the Forest Service reorganization.

The Forest Service is the largest of the USDA agencies with approximately 40,000 employees nationwide. The USDA reorganization has been the subject of hearings in the whole Senate Agriculture Committee, but the absence of any Forest Service proposal raises serious questions of the administration's intent.

I think by now it is obvious I feel very strongly that the Forest Service reorganization must be included as a part of the overall USDA reorganization plan. In that way the agricultural committee will have an opportunity to question these major reorganizational decisions which are now independent of Congress. We need to see alternatives for the Washington offices and the regional offices personnel reductions, and what are the budget targets, clearly the reorganization of this stovepipe approach to law enforcement and certainly an analysis of other major programs.

Mr. President, this is an unprecedented move on the part of this administration. I only hope that an agency with the kind of history and quality of administering of our public lands ever since 1905 is not destroyed for political reasons by the Clinton administration. But there is no doubt that today, taking a career position, the chief of the U.S. Forest Service, and reaching in and making it political without giving this Senate in a bipartisan way the opportunity to review that appointment and make comments on it, is a dangerous precedent that I believe will come home to haunt this administration.

I yield back the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

ORDER OF PROCEDURE

Mr. RIEGLE. Mr. President, I ask unanimous consent to speak for as long as 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair.

## FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I am rising today in what will be my last statement this year telling my colleagues about the problems facing real people as a result of the health care crisis that is facing our country. Today I want to share with everyone the story of Christopher Arnold of Pontiac, MI. Christopher, who is only 5 years old, suffers from primary immune deficiency disease.

I want to show you a picture of him. It comes from an article that ran in the Open Press newspaper on April 6 of this year. Here is the picture of Christopher. That story, of course, tells about the problem that he is facing with which I want to outline now.

For 4 years prior to Christopher's birth, Debbie worked for the same company as Rick. However, after complications during Christopher's birth, Debbie was out of work for several months. When she finally returned to her job, she was demoted to a position in which she was forced to travel. Because she could not travel with an infant at home, she was forced to leave her job.

Christopher lives at home with his parents, Debbie and Rick Arnold, and his 15-year-old sister, Delena. Rick is an insurance agent for Blue Cross-Blue Shield, and Debbie works part time at a photographer's studio. Rick's income varies with his sales, but together, the Arnold's yearly income usually amounts to about $40,000.

It was not until about 6 months after Christopher's birth that the Arnolds found out just exactly what this medical problem was that he was facing. Christopher was, unfortunately, born with an immune system disorder. Actually, of the people in our society, there are an estimated 1 in every 500 who have to cope with this problem. But it means that the defense system within his own body is not able to fight ordinary infections that humans are faced with having to fight off all the time.

Every 2 or 3 weeks, Christopher gets a blood infusion which costs between $1,500 and $1,800. He is constantly on antibiotics, and also takes asthma medication. The cost of his medications can be as high as $1,000 each month.

That is in addition to the blood infusion that he needs. This little guy has already had 10 surgeries. Rick pays about $2,000 annually for the insurance policy to cover his family. And it is fortunate that he has that degree of coverage because so many do not. But that does not solve the problem, as you will soon hear.

At first, his insurer refused to cover Christopher's home infusions. But after numerous appeals from Christopher's doctors, and the home care company that administers his therapy, the insurer agreed to cover 80 percent of Christopher's treatments and medications.

But Rick and Debbie are still paying as much as $10,000 each year for the 20 percent of Christopher's care that their policy does not cover. I can imagine what it would be for somebody even in a worse situation with no coverage at all.

Fortunately, about a year ago, the Arnolds found out they were eligible for benefits through Special Health Care Services. Special Health Care Services is a State program that provides benefits for children with chronic illnesses, and they have been picking up the remaining 20 percent of Christopher's bills for the past year.

The benefits and premiums for this program are based on a family's income. Because their income is low, the Arnolds have not had to pay anything for the benefits they have received so far. They are worried, however, because their income has gone up since they first became eligible, and they will be reviewed early next year. They fear that they will have to begin paying premiums for the extra benefits, which may be too expensive for them to afford and to meet other basic living costs.

The health care bills that the Arnolds had been paying prior to enrolling in Special Health Care Services put them in financial distress. Their credit rating has been ruined because they have been forced to pay their bills late, and this year alone, they have been in foreclosure on their home twice. In fact, just this Monday, they had to remortgage their house, which was going to be foreclosed on at noon on Tuesday. If they had not found a company to remortgage their home on Monday, they might have been out on the streets right now.

Imagine not just a family being forced out onto the streets because of these kinds of accumulated medical bills but imagine taking a little sick guy like Christopher out into that condition. And there are children like that out there now in other circumstances as we know.

Christopher's sister, Delena, is only 2 years away from being ready to go to college. She dreams of going to medical school and becoming a doctor. And good for her to have that kind of ambition. But at this point, Debbie and Rick know they will never be able to afford to provide their daughter this kind of education.

In fact, Rick is actually locked into the job. We talked about job lock because of health insurance. He is in that situation because it would be virtually impossible to find a new employer that would cover Christopher because of his what is called preexisting condition.

The Arnold's greatest fear is that when Christopher reaches the age of 23 he will not be able to get insurance on his own. He has already been denied life insurance. Christopher will need care for the rest of his life, so they also fear the day that they will reach the lifetime maximum of their coverage. They have a maximum of $1 million, but annual expenses for Christopher's care can be as high as $100,000.

Mr. President, the sickness of a child can be devastating for a family. And it is happening all across this country in cases like this and others.

And it is just not right that a sickness like Christopher's also has to be so financially devastating for the Arnolds. Through health care reform we must make sure that health care is both available and affordable for American families. We must provide out-of-pocket spending limits for families such as the Arnolds rather than allow insurance companies to limit the amounts they will pay. We have to reform our insurance market so that people like the Arnolds don't have to worry about changing jobs or whether Christopher will be able to get coverage when he is too old to be covered under his father's policy. And most importantly, we have to make sure that Christopher will always have the high quality doctors and services that he has already been receiving.

I think these are goals for health care reform that most of us agree with. The reform plan that President Clinton proposed and I am cosponsoring does achieve these goals. It will assure that all children are covered no matter what, and it will make sure that people like the Arnolds do not have to face the possibility of losing their home because of their medical expenses for their son.

Mr. President, I am going to do everything I can to make sure we pass legislation that accomplishes these goals before the end of next year.

I want to say to the majority leader, who has been such a strong fighter and advocate in behalf of health care reform, that when we achieve that we will make sure that youngsters like this in the country like Christopher Arnold shown here will have a chance, have the chance that God intended to see to it that they have the care and that their families can respond to their needs and have some kind of a chance for a full life in this great country of ours.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague for his statements, and look forward to working with him to pass health care reform next year.

## UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on H.R. 3167, the bill to extend the emergency unemployment benefits; that immediately upon the reporting of the conference report Senator GRAMM be recognized to make a motion to recommit the conference report back to conference for the purpose of restoring the original Senate language on the reduction of the Federal work force; that there be 60 minutes for debate, equally divided in the usual form, on that motion; that at the conclusion or yielding back of time the Senate, without any intervening action, or debate vote on Senator GRAMM's motion; that if the motion is defeated then the Senate, without any intervening action or debate, vote on the conference report; that if the motion to recommit is adopted then the bill be sent back to conference.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167), a bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 8, 1993.)

### MOTION TO RECOMMIT

Mr. GRAMM. I move to recommit the conference report on H.R. 3167 to the committee of conference with instructions that the conferees on the part of the Senate further insist on Senate amendment numbered 1.

Mr. DOLE. Mr. President, here we go again. For the second time this year, the Senate is debating an extension of unemployment benefits that is not paid for.

Since November 1991, Congress has acted to extend unemployment benefits four times, with the most recent extension coming in March 1993. The first three extensions, under President Bush, were paid for each year consistent with the budget law. But, the first extension under President Clinton was declared an emergency and added $5.7 billion to the deficit. I voted against that extension of benefits.

### THE FACTS ABOUT H.R. 3167

The Congressional Budget Office—the President's own hand-picked budget scorekeeper—says that all of the new spending in H.R. 3167—a total of $1.07 billion—would occur in 1994, but the

bill not be paid for until 1998. CBO projects that in fiscal year 1994, this bill would increase the deficit by more than $1 billion.

Back in September, OMB Director Panetta said—and I quote—"we're not going to submit [a proposal to extend unemployment benefits] * * *, unless it's paid for." OMB Director Panetta was one of the authors of the original pay-as-you-go requirements. He knows what they mean. Perhaps, that is why the administration never submitted a formal proposal to extend these benefits.

Mr. President, Senator NICKLES and I worked in good faith with the chairman, the Majority Leader, and representatives of the administration to try to find a solution. We were unable to find a mutually acceptable way to pay for the bill, but we were able to make a positive contribution to this debate. We crafted a sense-of-the-Senate resolution that puts the Senate on record on two important points: The first is that, based current economic forecasts, we believe this will be the last extension of the Emergency Unemployment Compensation Program. Second, we believe the administration should come forward with a proposal to reform the Unemployment Compensation Program at the earliest possible date. This resolution was adopted with bipartisan support and the support of the administration.

For those out of work, the holiday season is the hardest. I understand that. There are good people in my State who have worked hard all of their lives and now find themselves out of work. They stand to gain 7 additional weeks of benefits under this bill. What has amazed me is how many of these people were outraged to learn that this bill will add to the deficit.

They understand that we will never get the deficit under control until we are willing to set some priorities. The administration can do better. The administration should do better. The least we should be able to do is prevent this increase from adding to the deficit.

Mr. GRAMM. Mr. President, let me begin by thanking the majority leader for giving me an opportunity to have this vote. I would guess that he probably has worked his side of the aisle pretty thoroughly on it and believes he has the vote. Perhaps he does. Nonetheless, I am grateful for the opportunity.

Let me remind my colleagues how we came to this point, what is at stake, where we are if we accept this motion to recommit with instructions, where we are if we reject it, and what the issue is, so that every Member of the Senate can understand the issue, and so that the American people can understand as well.

When we were on the unemployment insurance bill, I offered an amendment with Senator GRASSLEY that put into place a binding mechanism to enforce the President's reinventing government proposal and reduce the size of the Federal bureaucracy over the next 5 years by 252,000 positions. The mechanism sets out in law the President's goals for a reduction in the size of the bureaucracy, triggers a mechanism whereby the Office of Management and Budget, on a quarterly basis, estimates whether the provisions of law reducing the size of the bureaucracy are being met; and in any quarter where the Office of Management and Budget finds that we are not meeting the targets, there is an automatic, governmentwide hiring freeze that stays in effect until those targets are met.

This amendment, when it was offered, was adopted by the Senate by a vote of 82 to 14.

Mr. President, I ask unanimous consent that the vote that was taken on that occasion be reprinted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3167 by Mr. ROSTENKOWSKI—Unemployment Compensation Amendments of 1993, 10/28/93—Senate Vote No. 1341: 82–14.

(Senate agreed to the Gramm Amendment No. 1090, to reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review.)

AMONG 82 MEMBERS WHO VOTED "YES"

Baucus, Bennett, Biden, Bingaman, Bond, Boren, Bradley, Breaux, Brown, Bryan, Bumpers, Burns, Campbell, Chafee, Coats, Cochran, Cohen, Conrad, Coverdell, Craig, Danforth, Daschle, DeConcini, Dodd, Dole, Dorgan, D'Amato, Exon.

Faircloth, Feingold, Ford, Gorton, Graham, Gramm, Grassley, Gregg, Harkin, Hatch, Hatfield, Heflin, Helms, Hollings, Hutchison, Inouye, Jeffords, Johnston, Kassebaum, Kempthorne, Kerrey, Kohl, Lautenberg, Leahy, Levin, Lieberman, Lott, Lugar

Mack, Mathews, McCain, Mitchell, Moseley-Braun, Moynihan, Murkowski, Murray, Nickles, Packwood, Pell, Pressler, Reid, Robb, Rockefeller, Roth, Sasser, Shelby, Simpson, Smith, Specter, Stevens, Thurmond, Wallop, Warner, Wofford

AMONG 14 MEMBERS WHO VOTED "NO"

Akaka, Byrd, Domenici, Glenn, Kennedy, Kerry, Metzenbaum, Mikulski, Nunn, Pryor, Riegle, Sarbanes, Simon, Wellstone

AMONG 4 MEMBERS WHO WERE "NOT VOTING"

Boxer, Durenberger, Feinstein, McConnell

Mr. GRAMM. Mr. President, we voted 82–14 to include this amendment because the provision carried out the President's program, because it set out our commitment to reduce the Federal bureaucracy in law, and because it saved what the Congressional Budget Office has now estimated to be $21.8 billion.

After we adopted that amendment here in the Senate and then passed the unemployment extension bill with that amendment on it, the House voted on a motion to instruct conferees in which they voted overwhelmingly to tell the House conferees to accept the Senate provision and to put $21.8 billion of savings in the bank on behalf of the American people. The conference met later in the day, and the majority members of the conference took less than 5 minutes to reject the Senate position and to adopt a conference report that dropped the Gramm-Grassley amendment and, in the process, eliminated $21.8 billion of real savings for the American people over the next 5 years.

That conference report went back to the House, and in an extraordinary action, the House voted to recommit it back to conference with instructions that the House conferees should accept the Gramm-Grassley amendment and put $21.8 billion in the bank for the American people. We now have a situation where the conferees are afraid to go back to the House, because on two occasions the House has said: Adopt the amendment saving $21.8 billion. So what has happened here in the eleventh hour is the bill has been brought to the Senate, and I have made a motion—in this case, the same motion that has been adopted twice in the House—which is to instruct the conferees to adopt the amendment and to save the $21.8 billion.

What happens if we accept this motion? What happens if we reject it? If we accept the motion, it will go back to the House for conference. They have voted for this provision twice. So if we send it back to conference and the conferees take it to the House in the form that we have passed it, and the House adopts it, then the debate is over and we will save $21.8 billion.

If we adopt the motion and send it back to conference and the House, which has voted for the amendment on two previous occasions, rejects it, then we have an impasse and the bill might die. I say to my colleagues that I know we are going to have a lengthy debate here, where people are going to say: If you want to go home, forget the American taxpayer, forget the $21.8 billion of savings you voted for, reject this amendment, and you can go home, and the taxpayer will not save the $21.8 billion. But who cares? And they are going to say: If we adopt the amendment, it is going to create an impasse with the House, and it is going to delay our departure. My argument is exactly the opposite. The House, on two occasions, has voted for this amendment. If we adopt the amendment in the Senate one final time, the House will almost certainly take it, and that will be the end of the debate.

So the issue now is not when we are going home. We can go home today, and we can go home today whether we pass this amendment or whether we do not pass this amendment. The issue today is: Shall we save the American taxpayer $21.8 billion?

I have a final point before I let the opposition speak and begin to recognize those who will speak on behalf of

the motion. We have taken this $21.8 billion and we have used it, in part, to fund the crime bill. Someone could say, well, why do we not just wait and adopt it as part of the crime bill? The answer, I think, is pretty clear.

First of all, if the White House and the leadership of the Democratic Party are so determined that they are not going to let the taxpayers save this $21.8 billion, what makes you think they are going to let us adopt a crime bill that has this provision in it?

Second, they are going to say we can adopt this later, and in the "sweet by-and-by" we can save this money.

Today is Saturday. All over America, the last college football games of the year are being played. Our situation is exactly analogous to one of those college football games. We have fought hard, we have the ball down on the opposition's goal line. We have won in the Senate once, and we have won in the House twice. The American people can see $21.8 billion of real savings. That is larger than the cumulative spending cuts in the first 3 years of the Clinton budget—$21.8 billion of money for the American taxpayer. We are on the goal line. Are we going to walk off and leave the ball here? Or are we going to punch it in over the goal line and score?

I say when we have come all this way, when $21.8 billion of savings is at stake, when deficit reduction is at stake, when building prisons to put violent criminals in prison is at stake, let us not walk off and leave the ball on the goal line. This vote and the vote on NAFTA will be the last votes of this session in the Senate no matter what. But what will be different is that if we adopt this amendment, we are going to save $21.8 billion. If we do not adopt it, we are going to walk off and leave that money, and we may never get it again. Eighty-two Members of the Senate said they were for this. I am asking those 82 Members to vote for it again.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, this is the simplest of decisions the Senate will make in this first session of the 103rd Congress. Are we willing to have unemployed workers who have been out of work for half a year or more, have the benefits which the Senate has approved, which the House has approved, which a committee of conference of the Senate and House has approved, and which has been paid for? Will we let these men and women, these workers and their families have the extended benefits, or will we take them away?

The $21.8 billion has been used on the crime bill. I do not wish to be personal about my friend from Texas, but he said, in announcing that this had been done, "I believe that it is truly doing God's work and America's work at the same time."

Now, we will leave the deity out of it, but America can do this work only once. We have spent this money on crime. It is not needed for this bill. This bill is paid for. If you wish to have these benefits extended as we have voted to do in the House and the Senate, and two times in conference, vote against the motion to recommit. If you desire to take away these benefits, that is the choice of the individual Senator. At the end of this first session of the 103d Congress, I am a bit out of voice, a tiny bit out of patience. This legislation expired more than a month ago. It has been held up for reasons difficult to comprehend. It is here before us to enact if we will and reject if that is the judgment of the Senate. But that is a judgment that lands in the homes of a million Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, I am going to yield to my distinguished colleague from Iowa, but let me make one point before I do. When we passed the President's budget, many people who voted against it—and I voted against it—said it did not cut spending enough. Many people who voted for it said, "I am voting for it, but I want to cut spending more and the President has promised that we are going to get a chance this year to cut spending more." I am sure my colleagues can still hear those voices in their ears.

This is the last chance we are going to have this year to cut spending. This is the last opportunity we are going to have to save the taxpayers' money. And $21.8 billion will be saved if we vote for this amendment. The House has voted for it twice. Their leadership is over there twisting arms until they break begging them, "For God's sake, the President said he is for it. But you know the President is not for it. The President does not want to reduce the number of people in the Federal bureaucracy. Do not vote for this amendment. If you vote for this amendment we are going to have to make the cuts." Despite all the political pressure they have failed, not once, but twice. We voted 82 to 14 for this amendment. We are on the goal line. We are going to save more money with this amendment than we are going to save in the first 3 years of the President's budget. This is the last chance in 1993 to actually save the taxpayers any money.

I yield 6 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa, Senator GRASSLEY, is recognized for 6 minutes.

Mr. GRASSLEY. Mr. President, go to any high school government class, go to any college political science class, go to your coffee shop at any small or big town in the United States of America and try to explain what a few people in this body are trying to do to this bill, and everybody is going to be aghast. They are not going to understand that American Government can work that way.

We had this amendment pass this body by an overwhelming margin—I think 82 to 14. It passed the other body by an overwhelming margin of over 100 votes. Then all of a sudden a few people meet in conference committee and it is gone.

Understand that what this amendment did is exactly what the President of the United States said he wanted, and the Vice President of the United States in reinventing Government—this is part of his program. And explain that when all the majorities are for it, and the President is for it, and the Vice President is for it, and it has passed both bodies at least once, one body twice, it does not happen. It takes a lot of chutzpah for a conference committee to take a provision that has this much support and just throw it out.

We are dealing with an amendment here that reinvents Government, and it was part of this unemployment insurance extension bill.

All we are simply saying is that what the Vice President and the President said they are going to do—that there is a plan to accomplish it of reducing by 1999 our employment by 252,000 people. The cap that is in this bill would do nothing more than enforce and put teeth in the President's and the Vice President's agenda that we all know as National Performance Review.

It passed the Senate 82 to 14. Subsequently, it was approved on a motion to instruct House conferees, 275 to 146, and yet the provision was taken out in conference committee on the unemployment extension bill, done without any explanation. The initiative to kill the provision came from the other body's majority party.

Mr. President, someone neglected to inform the conferees that this is part of the President's National Performance Review effort, that the President supports reducing Government employment. It is a critical effort on the part of this Congress. This Gramm-Grassley amendment is with us to cooperate with the President for reform, and also it is an effort to end gridlock. It is a critical component of the ongoing effort to reform our Government and make less Government work better. And the effort enjoys much bipartisan support. It enjoys bipartisan support as reflected in these rollcalls because the American people are demanding that we pare back an overweight Federal Government and make it more effective.

Not long ago, the other body was chided across America on the issue of the "discharge petition." That was a

measure by the other body that they could vote publicly one way and then somehow vote the opposite way in secret to bottle up something with the same provisions in committee.

That is exactly what happened in this case. Both Chambers showed overwhelming support for the Gramm-Grassley amendment. But the conference met in closed quarters, some Capitol hideaway of the chairman of the Ways and Means Committee. And, lo and behold, the measure just disappeared—presto, poof, vanished.

The President's and Vice President's noble efforts to reform and reinvent Government are thus, by a few people, dealt a severe blow. So the conferees reported out a bill stripping the Gramm-Grassley amendment from it. And that bill is before us today.

The House sticks by their position, 226 to 202 for this amendment. The second go-around, still a vast majority for it.

I think it sends a pretty clear signal, Mr. President, a clear message. The President wants reform. The Vice President wants reform. The Senate wants reform. The House wants reform. The American people expect that reform.

But the question is, Do the conferees want reform?

Well, maybe, with these instructions, this time they will get it right.

Mr. President, old Washington hands—those who have been around this town many years—are laying down bets that reform will not happen. Notwithstanding the best intentions of this administration and many of us in Congress.

They say the biggest obstacles to reform are the powerful committee chairmen in Congress. These powerful committee chairmen, they say, are wedded to special interests and will not give up their fiefdoms.

Meanwhile, the public is becoming increasingly perturbed with Members of Congress who say one thing and do another. They vote one way in public, and the opposite way in private.

I mentioned the example of the discharge petition. Members are also aware that it happens in other issues on this floor and this is just the latest.

There are two realities of Washington politics that are once again taking hold—Congress as a barrier to reform; and Congress saying one thing one time and then letting something else happen quietly another time that undoes what previously had been done.

The old Washington hands have it right; and, the American people have it right. Congress is the obstacle to reform, and Congress says one thing and does another.

Mr. President, premeditated hypocrisy is alive and well in Washington. This is precisely what the American people are fed up to here about. Once again, I ask the question: Will the conferees get it right and put teeth in our reforms of Government? Or, will they once again resort to premeditated hypocrisy, and defang the bill of its Gramm-Grassley provision?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PACKWOOD. Mr. President, I support this extension of the Emergency Unemployment Compensation [EUC] Program. It will provide much needed relief for our unemployed workers.

Although the national unemployment rate has slowly declined in recent months, unemployment remains high in too many corners of our country. In September, Oregon's unemployment rate was 7.5 percent compared to the national rate of 6.7 percent. And Oregon's timber communities are still suffering greatly—Douglas County's unemployment rate is over 11 percent.

When the EUC Program expired 6 weeks ago, Oregon had the foresight to pass State legislation and opt into the extended benefits [EB] program so that unemployed Oregonians would receive additional benefits. But many States did not act quickly enough and are relying on this legislation to allow them to provide unemployment benefits through January 1994. Many Americans are out of work through no fault of their own and they desperately need these unemployment benefits.

It is unfortunate that this bill has been delayed by a variety of circumstances. Some will argue that the delays are caused by a Senate floor amendment which would put into law Vice President GORE'S recommendation to reduce Federal Government employees by 252,000 by fiscal year 1999. I disagree. This amendment enjoys widespread support in both the Senate and the House. It passed the Senate by an overwhelming majority of 82 to 14, receiving more favorable votes than the unemployment bill itself. The House conferees have been instructed on two occasions to accept it. Over the objection of myself and others, the conferees rejected the amendment. The time has come to accept this amendment and move forward this important legislation.

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi, Senator LOTT, is recognized for 5 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Texas for yielding me this time.

I rise to support what he is doing here today. We were told some days ago, I guess it was weeks ago, that there was an urgent need for the extension of these unemployment insurance benefits, that we needed to get it through here very quickly, that these people were looking for these benefits. That was, I believe, some 30 days ago. This basically has expired.

So my question is: Why has it not already been passed? It could have been passed already. All the House and Senate had to do was go along with how they had already voted, accept the Gramm amendment to save $21.8 billion, and it would have already been law. This could have been passed 2 or 3 weeks ago. It could have passed by unanimous consent just yesterday. All that had to be done was accept the savings of the Gramm amendment that was added to this unemployment insurance provision and it would have been law.

Now, this is the last chance we have to do something about cutting spending. I can just hear us as we go back to our various States next week or the week after. We are going to be saying, "Oh, yes, we stepped up to the important task of cutting spending. Why, I voted to cut $21.8 billion in personnel reductions, as was recommended by the Clinton-Gore National Performance Review Panel."

But when the chips were down, did the Senate stick with how they had already voted? I mean, it is important that the Senate voted 82 to 14 for the Gramm provision. The House had a motion to instruct that passed 257 to 146 to keep the Gramm language, and in the motion to recommit to the conference, the House again insisted on the Gramm language with a vote of 226 to 202.

The Senate and the House have spoken. So why is that language not in this bill at this time? I cannot understand it.

Some people say, "Well, we have now added it to the crime package."

Yes, I remember the crime package. Two years ago, we passed a pretty good crime package here in the Senate. It went to conference, and in the dead of night, on a Sunday, it was rewritten. A whole different bill came back. I have real serious doubts, when we see a conference between the House and the Senate on the crime bill, if this personnel savings reduction will actually be in there.

So I am not convinced that is the way to solve the problem.

One thing that bothers me, also, about this provision is the unemployment insurance package is not paid for in the first year. So any of my colleagues that really care about deficit spending or deficits or reducing what is spent around here, you have a double-edge sword here. No. 1, you have a bill that is not paid for in the first year, the unemployment insurance package; No. 2, you have a chance to vote again the way you have already voted to save $21.8 billion.

Now, how are you going to explain that? How are you going to go home to your constituents and say, "Well, yes, I

was for this personnel reduction. I voted for it on a vote of 82 to 14. But when it came back in a really crucial decision to make it part of the unemployment insurance package, well, I could not do it in that instance."

What we need to do is to vote with Senator GRAMM in what he is trying to do here. We can pass unemployment insurance; we can save $21.8 billion in personnel costs. I mean, who among us can be opposed to that? The President is for it. The Vice President is for it. We voted for it. The House voted for. Let us do it. It is a real simple thing. We ought to take a vote. We ought to vote again to have this savings, and then we can vote on NAFTA and we can go home and say, "We extended these unemployment insurance benefits. We cut spending $21.8 billion. We passed NAFTA. We have done what is right for America."

That is the way we ought to end this session up. This is the last train pulling out. I can see it. It is leaving now, Saturday afternoon. The distinguished leader is on the floor. He is doing his very best to wrap up this important issue, and we want to be helpful. And this is how we can do it.

So I urge my colleagues, vote with Senator GRAMM on this. Let us wrap up the session right. I will be prepared to vote with Senator GRAMM, vote for the unemployment insurance benefits and vote for NAFTA. And that is the first I said that on the floor of the Senate.

So this is the thing to do this afternoon. It is the right thing to do. We are going to see who really wants to cut spending this afternoon. Is there any among us here in the Senate this afternoon that would like to save $21.8 billion? So, you are going to get a chance to stand up and cast your vote with Senator GRAMM this afternoon.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may we ask for a showing of hands as to how many Senators would wish to save the same $21.8 billion twice?

Mr. GRAMM. Three times.

Mr. MOYNIHAN. The Senator from Washington graciously concurred.

And now you have a sense of the economic wisdom of this body, or its accounting techniques.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, we are only going to have a chance this year to save it once.

The question is, who is for real and who is not for real? Who was telling the truth when they voted 82 to 14 and who was not?

We hear every day about the minority holding up the Senate. Eighty-two Members of the Senate have voted for this provision; 275 Members of the House. And yet a small number of people who do not want to cut Government spending are holding up the Senate.

I yield 4 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado, Senator BROWN, is recognized for 4 minutes.

Mr. BROWN. Mr. President, the facts are very clear. This is saving over $21 billion. The American people want it saved. The leaders from the White House through the House and the Senate have identified this as an area where we can and should cut. We have all identified it as an area of low priority. What has happened here? People who have espoused saving money, espoused cutting spending, are now prepared to eliminate this measure, this savings, and see it go by the boards.

This is a very simple question. The American people want it. People have advocated it. And now we are going to have a test as to whether or not people's walk matches their talk.

The White House announced they are favoring another $100 billion in rescissions and savings. And yet they have not brought a package to the Congress to do it.

So a number of Members of the House and the Senate, on a bipartisan level, have come together in the House to form the Penny-Kasich plan and in the Senate the Kerry-Brown plan. Our plan saves $109 billion. It is bipartisan.

What do we have from the White House?

The headline in the Washington Post: "White House Lobbies Against Plan."

The simple fact is, the White House is advocating saving money, but when it comes to actually saving it, they are opposing it.

That double approach, that approach where you advocate it but then vote against it or oppose it, is what has caused this deficit.

Mr. President, these are simple basic figures. This is the national debt. It now exceeds $4 trillion, in just the few years that are pictured here. No one can look at this chart and come away saying we are not a train wreck ready to happen. This is a national catastrophe. The $21 billion in this bill is peanuts, but it is essential toward turning this around. It is essential for honesty in government.

Mr. President, whether you are a Democrat or Republican, if you look at what is happening to our Nation, we are pouring the future of this country down the drain. We are providing the most irresponsible example of fiscal waste of any time in the history of mankind. No one can look at this and not come away aghast at what we are doing to this beloved Nation.

This amendment is $21 billion-plus that can be saved out of a targeted area that everyone claims they agree on. If we do not take advantage of this opportunity it will be lost again. Those who love this country, and I believe every Member of this body does, have to be concerned.

There was a point at which some said, "Look, the deficit does not matter. We owe it to ourselves." But what has happened, of course, everyone knows, we have borrowed so much money we have had to borrow it from foreign interests around the world. No one claims we owe it to ourselves anymore. The simple fact is we are like an alcoholic. We cannot seem to help ourselves. Senator GRAMM has provided us an opportunity to do it, to let our walk match our talk. Will this body do it? I hope they will. But one thing should not go left unsaid.

While this body voted overwhelmingly for this savings, our conferees deserted the ship. Even though they had an obligation to stand up for the Senate, and the savings of the Senate, when they got to conference they could not concede fast enough. What we do with this vote is tell our conferees we want you to represent the Senate. Incidentally, we want you to represent the American people.

This train wreck that will happen to our economy if this Congress continues to throw away money like drunken sailors will affect every American. It will affect every job. It will affect the soundness of the world economy.

We have a chance to change that. We have a chance to put ourselves on the right course. I hope this body will stand up and vote for the Gramm amendment and insist that our walk matches our talk.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? If no one yields time, time will be equally charged.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I have 2 minutes and 14 seconds. I want to go ahead and use part of it and I want to anticipate the argument we are going to hear.

First of all we have spent the better part of 2 days in an effort to try to prevent me from offering this motion. Finally, when it became clear that I was willing to hold the Senate here until Wednesday, or until Christmas, that has changed and we are now going to vote on this motion to preserve my amendment.

You are going to hear an argument that basically says this money has been spent many times in many different bills. My point here is that it has never been enacted into law and actually saved. What this amendment does is save $21.8 billion.

Now, it is true if we ever pass a crime bill, parts of the money will be used in that crime bill to build prisons, to lock up violent criminals and repeat offenders. But this amendment is not about spending, it is about saving. I think it is a cynical farce to argue about how

this money is being spent, and there are a lot of people with great imaginations who are thinking about how to spend this money and other money. The issue is, the money has never actually been saved. Our objective in this amendment today, in 1993, is to save $21.8 billion.

We have had many votes here where people have gotten up and talked about reducing spending. The distinguished majority leader has chastised Members of the Senate on my side of the aisle for not voting to reduce the deficit. I issue him this challenge today: Vote to reduce the deficit by $21.8 billion.

One of the things we will know when this vote is over: Who is for real and who is phony on the issue of deficit reduction. We are at the goal line. We have adopted this amendment in the Senate. It has been adopted twice in the House. It has been circumvented by a small number of people who do not want the money saved.

We are on the goal line now. Can we stick with $21.8 billion? Or are we phony in claiming we will save the money in the sweet by and by?

The PRESIDING OFFICER (Mr. KERREY). The Senator's time has expired. Who yields time?

Mr. MOYNIHAN. I yield such time as the majority leader desires.

Mr. MITCHELL. Mr. President, the distinguished Senator from Texas used the words cynical farce, and phony. I think that is the best description. I cannot think of a better description of this amendment. I think that is what this is. In the words of the Senator from Texas, a cynical farce, and a phony.

This money—we voted this in the crime bill. Now we are going to vote it on the unemployment bill?

I rarely make predictions of certainty, Mr. President, but I predict with certainty the day we get back here in January someone is going to offer to use this same thing for some other measure, and a fourth time, and a fifth time, and a sixth time. The Senator from Mississippi said, why, if you just vote for this you can go home and issue a press release saying you saved money.

I think that tells us what the motive is here. It is issuing press releases saying you saved money.

And the blizzard of press releases that will flow when we return to session in January will make the snow in Maine look like nothing. We are going to be swamped with press releases from Senators, and mostly our distinguished colleagues over here, saying how they spent this money—how they saved this money over and over again. This will be the most used money in recent history.

We heard the word "phony" used over and over again. The talk is about the need to cut spending. We had 24 votes on the appropriations bills to cut spending; 24 times the Senate was called upon to vote on actual, specific, spending cuts. Not formulas, not caps, not processes, not mechanisms, not speeches—but actual spending cuts. Does the Senator from Texas have any idea on how many of those votes he actually voted to cut spending?

Mr. GRAMM. I do not think the majority leader would like to compare his record on fiscal responsibility with mine. Maybe we have votes on defense cuts. I do not know. I am sure I am going to get to hear. I know how I am going to vote on this amendment to cut spending.

Mr. MITCHELL. We have to leave a little suspense here, so I will leave it to him to check it out.

The fact of the matter is everybody knows what is going on here. This has been a very long, interesting, and productive session of the Senate. But I think it is fitting that it ended as it began, with speeches about deficit reduction that are, in the words of my colleague himself, a cynical farce and a phony.

I urge my colleagues to reject this cynical farce, and this phony amendment. This has already been done. Everybody here knows it has been done. Let us no longer delay the unemployment insurance extension that is and will be so badly needed.

Mr. President, I think our colleagues are out of time. We have more time but unless the distinguished chairman of the Finance Committee wishes to continue further, we could yield back the time and proceed to a vote right now.

On behalf of the chairman I will yield back the time if my colleague will, and then we will have a vote.

Mr. KOHL. Mr. President, I voted for the Gramm amendment when it was originally before the Senate. I think it is a good idea. The President has identified substantial budget savings that will result from cutting the Federal bureaucracy by 252,000 employees over the next 5 years. And though I believe that the President will carry through on his promise to eliminate these positions, it does no harm—and probably does some good—to write these savings into law.

So why not do it today? Why not adopt the Gramm amendment? I will give you two good reasons to vote "no."

First of all, the Gramm amendment is a good idea raised at a bad time. We are about to go out of session. The Gramm amendment will kill the extension of unemployment benefits for the rest of this year. It will send this bill back to conference instead of to the President's desk. At the end of any session, that would be a mistake. At the end of this particular session, it is an even greater mistake. We will soon pass NAFTA, a trade agreement that could lead to the loss of hundreds of thousands of American jobs. How can we, in the same hour, vote to send jobs to Mexico and vote to kill the benefits that will keep alive those workers whose jobs we sacrificed? I, for one, cannot.

Second, we have already voted to lock in these savings on the recently passed crime bill. In fact, we voted to both lock in the savings and use some of them to increase the number of policemen and women patrolling our streets. I believe it is a smoke and mirrors of the worst kind to claim, last week, that we cut the bureaucracy to fund law enforcement and claim, this week, that we cut the same bureaucracy to reduce the deficit.

That said, I want to point out that I am a sponsor, along with Senator KERREY from Nebraska and several other Senators from both parties, of a budget-cutting plan that also includes these cuts in the Federal bureaucracy. However, our plan notes very clearly that if the savings from cutting the Federal work force are adopted elsewhere—for example, in a crime bill—we will not count them as part of our deficit reduction totals. We acknowledged that you can't have your cake and eat it too. I urge Senator GRAMM and his supporters to do the same.

Mr. President, this is a destructive amendment and a misleading amendment. I urge the Senate to reject it.

Mr. LEVIN. Mr. President, I support the goal of cutting the level of Federal employment along the lines suggested by the President's Commission on Reinventing Government. I voted that way as part of the effort to pay for the crime bill that we passed yesterday. Therefore, any attempt to portray a vote against the Gramm motion to recommit as opposition to cutting the level of Federal employment is a total distortion.

So, this is not a vote for or against cutting the level of Federal employment. I support that, as do a majority of my colleagues. And, I believe that we will enact those cuts as part of the crime bill when it is enacted next year. I hope this vote today is about whether we want to pass an extension of Federal unemployment. I support such an extension, and for that reason will vote against the motion to recommit.

I fear that this vote is an attempt by some to have their cake and eat it—to vote to cut Federal employment levels as a way to reduce the deficit after they have already voted to cut the same dollars in order to pay for the crime bill. They seek to do this and to embarrass those who feel a need to be consistent and vote against this motion to recommit. No wonder the American public is cynical about what happens in the Congress.

Mr. LIEBERMAN. Mr. President, I will be voting against this motion to recommit. In doing so, I would like to make clear that I am not against reducing the Federal work force by

252,000 employees. I fully support making these reductions, and am fully committed to the President's efforts to reinvent Government to make it work better and cost less.

But we should not hold up extended unemployment benefits over the holidays over what would be a symbolic vote. We have already passed the reduction of 252,000 employees as part of the crime bill, and in addition we have locked in those savings and directed them to fund tough, new anticrime initiatives. We will achieve these reductions.

For this reason, I am voting against this motion to recommit.

Mr. LAUTENBERG. Mr. President, I voted for the Gramm amendment on October 28. I intend to vote against it today.

I do not vote against it because I oppose it. In fact, I favor it. I want to see Vice President GORE's performance review recommendations put into place. Indeed, I was one of the first to implement some of those recommendations in this year's transportation appropriations bill where I eliminated demonstration projects, transportation earmarks, and reformed the Essential Air Services Program. Just last week I joined with nine of my colleagues in offering a $45 billion deficit reduction package. So I am committed to reducing Federal spending.

But we do not have to hold up unemployment benefits to do it.

What Senator GRAMM wants to do here has already been done—and done in a more meaningful way—on the crime bill. I supported an amendment to that bill which not only reduced Federal employment; it also took the money which was saved and devoted it to deficit reduction or to fighting crime.

That is meaningful. The only meaningful thing about this motion to recommit this bill is that it would result in hundreds of thousands of Americans being denied unemployment benefits. These people need help; they deserve help; they earned the right to get help by paying unemployment taxes while working, and by working until forces beyond their control brought them to the unemployment lines. They should not be held hostage to an issue that has nothing to do with them.

Mr. President, it is almost Thanksgiving. The unemployed want to celebrate that holiday even if they do not have much to be thankful for. The least we can do is give them this extension of their unemployment benefits. And that is what I will vote to do.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is on the motion to recommit. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 36, nays 63, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—36

| | | |
|---|---|---|
| Bennett | Gorton | McCain |
| Bond | Gramm | McConnell |
| Brown | Grassley | Murkowski |
| Burns | Gregg | Nickles |
| Cochran | Hatch | Packwood |
| Coats | Hatfield | Pressler |
| Craig | Helms | Roth |
| D'Amato | Hutchison | Simpson |
| Coverdell | Kempthorne | Smith |
| Dole | Lott | Thurmond |
| Durenberger | Lugar | Wallop |
| Faircloth | Mack | Warner |

NAYS—63

| | | |
|---|---|---|
| Akaka | Feingold | Metzenbaum |
| Baucus | Feinstein | Mikulski |
| Biden | Ford | Mitchell |
| Bingaman | Glenn | Moseley-Braun |
| Boren | Graham | Moynihan |
| Boxer | Harkin | Murray |
| Bradley | Heflin | Nunn |
| Breaux | Hollings | Pell |
| Bryan | Inouye | Pryor |
| Bumpers | Jeffords | Reid |
| Byrd | Johnston | Riegle |
| Campbell | Kassebaum | Robb |
| Chafee | Kennedy | Rockefeller |
| Cohen | Kerrey | Sarbanes |
| Conrad | Kerry | Sasser |
| Danforth | Kohl | Shelby |
| Daschle | Lautenberg | Simon |
| DeConcini | Leahy | Specter |
| Dodd | Levin | Stevens |
| Domenici | Lieberman | Wellstone |
| Exon | Mathews | Wofford |

NOT VOTING—1

Dorgan

The motion to recommit the bill (H.R. 3167) to conference was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I urge adoption of the conference report.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am advised by the distinguished Republican leader that one or more colleagues on that side of the aisle wish a recorded vote on this measure. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—79

| | | |
|---|---|---|
| Akaka | Ford | Mitchell |
| Baucus | Glenn | Moseley-Braun |
| Bennett | Gorton | Moynihan |
| Biden | Graham | Murkowski |
| Bingaman | Grassley | Murray |
| Bond | Harkin | Nunn |
| Boren | Hatch | Packwood |
| Boxer | Hatfield | Pell |
| Bradley | Heflin | Pryor |
| Breaux | Hollings | Reid |
| Bryan | Hutchison | Riegle |
| Bumpers | Inouye | Robb |
| Burns | Jeffords | Rockefeller |
| Byrd | Johnston | Roth |
| Campbell | Kassebaum | Sarbanes |
| Chafee | Kennedy | Sasser |
| Coats | Kerry | Shelby |
| Cohen | Kohl | Simon |
| Conrad | Lautenberg | Simpson |
| D'Amato | Leahy | Specter |
| Daschle | Levin | Stevens |
| DeConcini | Lieberman | Thurmond |
| Dodd | Mathews | Warner |
| Domenici | McCain | Wellstone |
| Durenberger | McConnell | Wofford |
| Feingold | Metzenbaum | |
| Feinstein | Mikulski | |

NAYS—20

| | | |
|---|---|---|
| Brown | Faircloth | Lugar |
| Cochran | Gramm | Mack |
| Coverdell | Gregg | Nickles |
| Craig | Helms | Pressler |
| Danforth | Kempthorne | Smith |
| Dole | Kerrey | Wallop |
| Exon | Lott | |

NOT VOTING—1

Dorgan

So the conference report was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MORNING BUSINESS

Mr. MITCHELL. Mr. President, and Members of the Senate, it had been my hope and intention to now proceed promptly to vote on the North American Free-Trade Agreement. I have just discussed the matter briefly with the distinguished Republican leader. He has requested a brief period of time for a consultation with his colleagues on that and other matters.

Therefore, I think it appropriate to accommodate that request, and I will now ask that there be a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ARAB LEAGUE BOYCOTT

Mr. LAUTENBERG. Mr. President, yesterday the Senate considered a resolution I introduced, Senate Concurrent

Resolution 50, calling for an end to Arab League boycott of Israel and American companies that do business with Israel. I am pleased that Senators SARBANES, GRASSLEY, LIEBERMAN, MACK, MOYNIHAN, and PELL are cosponsors of this resolution.

The resolution expresses the sense of Congress that ending the boycott is a matter of great urgency for our Nation. It makes clear that the boycott is a priority issue in our bilateral relations with each Arab State.

The resolution is in line with a letter that I along with Senator GRASSLEY and 75 of our colleagues in the Senate recently sent to the head of the Arab League calling for an end to the boycott.

Since the establishment of the Jewish State in 1948, the Arab countries have, in addition to striking Israel militarily, declared economic war against her, and those that do business with her. They do this by boycotting Israel and companies that do business with Israel.

A few weeks ago, the world hoped and expected that the Arab League would publicly renounce the boycott. We had just witnessed a breathtaking signing ceremony which laid the groundwork for Israeli-Palestinian reconciliation. The conditions were ripe for a renunciation of the boycott.

After decades of conflict, Prime Minister Rabin and Chairman Arafat concluded that cooperation—rather than conflict—holds the greatest promise for attaining peace and prosperity for the Israeli and Palestinian people. Chairman Arafat finally renounced terrorism and recognized Israel's right to exist. Despite the history of bloodshed and battle, they recognized each other. They shook hands and courageously agreed to work together for peace between Israel and the Palestinians.

Because the Arab League has linked progress on the Palestinian issue to a renunciation of the boycott, I expected the Arab countries to agree to lift the boycott after the Israeli-Palestinian agreement was signed. I expected the Arab nations to support the peace process with an appropriate confidence building measure.

But they didn't.

Instead, the Arab League took a series of decisive steps backward. The League formally reaffirmed its commitment to the boycott policy. Indeed, Arab representatives began discussing methods to step up rather than dismantle the boycott of American companies. And in a demonstration that their ideology had not changed and their intransigence had not altered, they scheduled an Arab League meeting to discuss adding more American firms to the list of blacklisted companies. Fortunately, the meeting was cancelled, which is a step in the right direction.

Mr. President, we already know that the economic boycott undermines Israel's economy. Now, in the wake of the Israeli-Palestinian agreement, a failure to lift it will harm the economies in Gaza and the West Bank too.

Why? Because a significant emphasis is now being placed on economic development in the West Bank and Gaza—development that will be inextricably linked to Israel's economy. The international community has already pledged development assistance, and economic cooperation has been in the forefront of discussion between the Israelis and Palestinians.

Given the monumental changes that have taken place between Israel and the Palestinians, clinging to the boycott no longer makes sense. The boycott will hurt the same people the Arab League has, in the past, vigorously claimed it wants to help—the Palestinians. It will make it that much harder to create a viable and stable economy in the West Bank and Gaza.

Secretary of State Warren Christopher commented on this point recently when he said that the Arab boycott "hurts not only the Israelis but also the Palestinians because they will be partners in many endeavors."

What the Arab League has demonstrated is that it has taken the tactics of terrorism to heart. Terrorists have always been willing to place hostages at risk as part of a strategy to achieve their goals. The Arab League has now demonstrated, again, that it is willing to hold the Palestinians hostage—to put them at risk—in order to achieve the goal of harming Israel. The cynicism of this strategy reveals the relative low priority the Arab League places on helping the Palestinians and the high priority it places on harming the Israelis.

But it is not just the Israelis and the Palestinians who suffer from the Arab League's economic blackmail. Importantly, Mr. President, the secondary and tertiary boycott—the refusal to do business with companies doing business with Israel—imposes harmful and unnecessary burdens on the United States economy as well.

Hundreds of businesses have been officially blacklisted by the Arab League. Because of the Arab League economic blackmail, they lose business. And that costs American jobs.

U.S. policy unalterably opposes the boycott. The United States has been seeking its end for many years. Our laws reflect that policy by barring U.S. companies from acquiescing in the boycott. American businesses should not be asked to violate U.S. law to conduct business in the Middle East.

But they are.

We know that in 1992, almost 10,000 documents containing requests to take boycott-related actions were reported to the Department of Commerce's Bureau of Export Administration. That means our businesses were asked nearly 10,000 times to break the law and acquiesce in the boycott.

We know that according to the Commerce Department's most recent preliminary statistics, 314 of the boycott compliance requests from July through September came from Saudi Arabia. This is the highest number from Saudi Arabia in any quarter in the last year and a half.

Because the boycott harms America's economy, the U.S. Trade Representative has, at my urging, included the boycott in its annual report outlining major barriers to U.S. trade.

It is also why the U.S. Trade Representative, Micky Kantor, has asked the International Trade Commission to conduct an economic analysis of the boycott on U.S. industry and jobs.

Additionally, given the harm to our own economy, continuation of the boycott undermines U.S. support for the peace process. The American people may question why the United States takes a political and economic leadership role in the effort to achieved peace while the Arab States penalize American companies doing business in and with Israel.

Mr. President, it's time for the boycott to go.

To its credit, the administration has been forcefully seeking an end to the boycott. At the United Nations last month, Secretary of State Warren Christopher attempted to seek a call for an end to the Arab boycott.

And President Clinton recently proclaimed: "I am confident that in the course of time, we will get the ban lifted."

I hope the President is right. But, for now, the Arab League stands in the way.

Perhaps it would be different if the Arab League adopted the view of the editor of a Saudi weekly who recently suggested "that we reconsider the boycott and ponder the benefits of establishing an economic relationship that makes the Jewish State want to foster and improve it."

Perhaps it would be different if the Arab League acted on the words of the Omani foreign minister, who recently stated "the boycott is a matter of the past and should remain in the past."

But the Arab League countries are not adopting this attitude. They refuse to move away from their intransigent position. They claim their citizens are not ready for a renunciation of the boycott. Syria is trying to turn back the diplomatic clock by calling for a tightening of the boycott. Consequently, the Arab League is digging in its heels.

Mr. President, the game has gone on long enough. It is time for the Arab League to put its money where its mouth is and abandon the boycott.

Now that the Palestinians have courageously entered into productive dialog with Israel and significant progress has been made, the Arab League needs to step up to the plate. It should not

create new conditions for lifting the boycott. For too long, the Palestinians have been used by the Arab League as pawns in the game of Middle Eastern politics.

It's time for the Arab League to put the diplomatic chess board away, take a confidence-building step, and support the peace process by dismantling the boycott.

I urge my colleagues to approve this resolution without delay.

## TRIBUTE TO FLOYD "PEP" YOUNG

Mr. DODD. Mr. President, I rise today to pay tribute to a great baseball player. His name was Floyd Lemuel Young, and I would like to tell my colleagues a bit about this remarkable career.

First of all, Floyd was his given name, but his fellow ball players never knew him by that name. Throughout his minor league career, he was known as Whitey because of his blond hair. When he arrived in the major leagues with the Pirates, Coach Honus Wagner dubbed him Pep because of his hustling style of play. That nickname stuck.

Pep Young was from the small community of Oakdale, near Jamestown, NC. He was on the smallish side, at 5 feet 9 inches and 160 pounds. But he was a fierce competitor and a brilliant all-around baseball player. In fact, in his column for the Chicago Evening American, the great pitcher Dizzy Dean said of Pep, "he scampers all around and eats up them grounders like a little old owl picking up field mice, and he don't never drop none."

While playing for the minor league club in Wichita, Pep was versatile enough to play every defensive position except catcher and first base during the same season. The Wichita baseball writer, Jack Copeland, proposed that since Pep was so popular and so versatile, the ball club should hold a special "Pep Young Day" so the fans could see Pep play the other two positions as well.

Although Pep began his minor league career with teams in North and South Carolina, he first became a star with the Wichita organization. He was named to the all-league team in 1931, and led the team to the league championship in 1932. The Pirates called him up to the major leagues the next year.

The Pirates believed that Pep was the best defensive second baseman in the major leagues, according to Charles "Chilly" Doyle of the Pittsburgh Sun-Telegraph. Doyle himself wrote, "nobody can field like Young." Nevertheless, he could not crack the starting lineup because of concerns over his hitting, so he spent his first two major league seasons as a utility player.

In 1935, Pep finally got his break. The regular second baseman, Cookie Lavagetto, suffered a pulled tendon. Pep stepped in and, as the Sporting News reported, "earned a regular job at the position with his slick fielding and timely hitting. He * * * became a favorite with Pittsburgh fans on the opening day of the next home stand, when he collected two triples and a pair of singles in four times at bat against Carl Hubbell of the Giants."

In 1937, Pep led the Pirates in home runs, and he led the entire National League in fielding with an average of .988. Honus Wagner called Pep the only "super-human second-sacker" he had ever seen.

Pep's performance in 1937 certainly raised some eyebrows in the major leagues. In 1938, the New York Giants manager Bill Terry offered a fortune, as Chilly Doyle put it, to the Pirates in hopes of trading for Pep. The Pirates turned the offer down, in large part because they did not want to aid their National League rivals.

The Pirates' refusal stung the Giants. Sportswriter Bill Corum, in his column for the International News Service, reported that the Giants' owner, Horace Stoneham, was devastated that the trade did not go through. Stoneham lamented:

> Young would have meant the difference in the pennant race * * * When I went to bed I thought Pep was ours. But when I woke up the phone was ringing, and it seemed that the Pirates had changed their minds. Now that it was broad daylight they didn't want to part with Young at any price, and right there the National League pennant race was decided.

Pep went on to play brilliant baseball for the Pirates in 1938. He teamed with future hall-of-famer Arky Vaughn to lead both the National League and the American League in double plays with 168. Pep also continued to come up with timely and game-winning hits. There was even talk that Pep should be the MVP of the National League, especially if the Pirates won the pennant.

Alas, as all Pirate fans know, the team lost the pennant on the last day of the season. Pep did not win the MVP award, but Liberty Magazine selected him for its all-league team that year. The magazine's team was elected by the ballplayers themselves. Their selection at second base, over such legendary players as Billy Herman of the Cubs, was Pep Young.

Pep had two more good seasons with the Pirates before assorted injuries finally ended his career with the team. He was then picked up by the Brooklyn Dodgers and traded to the Cincinnati Reds. He finished the 1941 season with the St. Louis Cardinals. He spent the next 3 years in the Pacific Coast League with Sacramento and in the American Association League with Columbus. He returned to the Cardinals in 1945 for 1 year as a utility infielder.

But even after he left the major leagues for good his career was not over. Always resilient and determined, Pep had a deep love for the game of baseball. He kept playing and coaching in the industrial leagues when he returned to North Carolina. In 1948, at the age of 41, he was named to the North Carolina all-star baseball team. So Pep ended his career much as be began it: as a hustling, talented and beloved player. He was truly what baseball is all about.

## CHINESE MILITARY BUILDUP IN THE 1990'S

Mr. PRESSLER. Mr. President, China today faces a lower military threat than at any time in the past 150 years. Yet, that is about to change. China is the only declared nuclear power in the world that has been increasing its military spending. By some estimates, Chinese military spending may have doubled in the past 5 years.

Anytime a nondemocratic regime markedly increases its military spending it should be a matter of concern for our defense planners. In the case of China, we must look beyond the raw numbers to four prime questions:

First, what weapons systems is China intending to produce?

Second, what outside assistance is China receiving?

Third, what are China's capabilities and intentions?

Fourth, what are the implications of these developments for our defense planning and arms control goals?

Mr. President, recently the Western press has begun to ask these questions. They have found very disturbing preliminary answers. For example, on November 9, the Los Angeles Times carried an extensive article suggesting that the Chinese are attempting to produce their own versions of the Russian SS–24 and SS–25 mobile intercontinental ballistic missiles. The SS–24 can carry up to 10 nuclear warheads, each of which is five times the size of the first atomic bomb dropped on Hiroshima, and can put them within 200 meters of a target more than 6,000 nautical miles away. The SS–25 is a road mobile ICBM with an even larger warhead, but with the same accuracy as the SS–24.

There is a reason why China is building Soviet-style weaponry. The Chinese apparently are getting help from former Soviet sources. On October 14, the Wall Street Journal reported, "weapons designs and mathematical modeling work are being sent to China by electronic mail from Russian weapons laboratories." The November 12 issue of the Washington Times reported that Russian experts are supplying China with "technology for triggering nuclear weapons."

The November 16 New York Times reported the existence of a Chinese military strategy book, published this year, which identifies the United States as China's principal future military adversary. This book outlines various war scenarios including the invasion of Taiwan, "War on the Korean

Peninsula and China's seizing of oilfields in the South China Sea."

Mr. President, all Americans sincerely hope that by the end of this decade, if not sooner, China will be both prosperous and democratic. China is well on the road to prosperity. However, there is no guarantee that democracy in China will occur. The implications of a new non-democratic entrant onto the world scene with modern, nuclear-tipped ICBM's are ominous. China did, in fact, first explode a nuclear weapon in 1964 but its delivery systems are 1960's vintage at best. Obtaining the technology to produce their own versions of the SS-24 and SS-25 would amount to an elevator ride straight up for Chinese strategic weapons capabilities.

Therefore, I have written to the distinguished chairman of the Senate Foreign Relations Committee, Senator PELL, and the distinguished ranking member, Senator HELMS, asking that, as a matter of high priority, the committee hold extensive hearing as soon as Congress reconvenes on Chinese military capabilities and their implications for arms control.

Mr. President, I ask unanimous consent that articles from the Los Angeles Times, Wall Street Journal, Washington Times, and New York Times, as well as my letter to the chairman of the Senate Foreign Relations Committee, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Nov. 9, 1993]

CHINA UPGRADING NUCLEAR ARMS, EXPERTS SAY BEIJING IS ALSO DEVELOPING NEW MISSILE SYSTEMS, INCLUDING BETTER ICBM'S, TO DELIVER THE WARHEADS, THEY BELIEVE.

(By Jim Mann)

When China carried out an underground nuclear test Oct. 5, its action was widely perceived as a political message, a gesture of defiance aimed at President Clinton and the U.S. Congress.

Many believed, as one international human rights activist put it, that China was "thumbing its nose at the United States"—particularly since the 90-kiloton blast came a scant two weeks after Beijing's campaign for the 2000 Olympic Games, for which Washington had little enthusiasm, ended in humiliating defeat.

But in the month since then, the small coterie of U.S. government experts and scholars who study the Chinese People's Liberation Army and its nuclear weapons program have concluded that China conducted the nuclear test for military purposes—ones that had little to do with the touchy state of relations between Washington and Beijing.

"It's clear to me that the test was not done for political reasons," says one Pentagon official. The test broke a yearlong international moratorium on nuclear testing that the Clinton Administration had hoped would continue.

Rather, the official explained, last month's explosion at China's Lop Nor testing site in the Xinjiang region was part of a series of tests in which the PLA is rushing to develop "follow-on systems" for its strategic nuclear forces.

"The purpose was definitely modernization (of nuclear weapons)," said Bonnie Glaser, a Washington-based consultant on Chinese defense strategy. "The Chinese are moving ahead."

So what is China doing?

"In the late 1980s, the Chinese decided they needed serious testing and development to bring their strategic nuclear deterrent up to international standards," explained Ronald S. Montaperto, a former Defense Intelligence Agency specialist now working at the Institute for National Strategic Studies.

"To do that, they needed some new warheads," he said. "They wanted something that was smaller, more deployable, more accurate."

Specialists note that China also carried out two underground nuclear tests in 1992, one of them a one-megaton blast that was China's largest ever and was 500 times the size of the bomb that exploded at Hiroshima. China has carried out 39 nuclear tests since it acquired the bomb in 1964 and has been testing at the rate of about once a year in the past decade.

Along with the new warheads, these specialists say, China has been developing new missile systems, including better intercontinental ballistic missiles.

"The Chinese are moving from these first- or second-generation liquid-fuel missiles to more mobile, more accurate solid-fuel missiles," says Timothy McCarthy, senior analyst at the Monterey Institute of International Studies.

This has happened with every nuclear missile program in the world, McCarthy notes. The pattern is to move toward missiles with solid fuel, which can be more easily moved from place to place, and with better guidance systems. And new missile systems require new warheads as well.

McCarthy, who also writes for Jane's Intelligence Review, said he believes China is developing a new ICBM similar to the Soviet SS-25. It would be a more accurate version of China's current ICBM, the DF-5, which has a range of about 8,000 miles and could reach the United States.

Specialists on weapons proliferation also link China's nuclear tests to missile programs. "The best explanation for why they are testing that I can figure out is that they need smaller warheads for new multiple-warhead missiles that they are developing," says Henry Sokolski, a former Pentagon official.

China's long-range missiles and ICBMs, first tested in 1970 and 1971, were originally planned to be able to reach Guam and the continental United States respectively. But many of these were eventually targeted on the Soviet Union—particularly after border skirmishes broke out and China and the Soviet Union came close to war in 1969.

Asked whether some of the Chinese ICBMs once aimed at Soviet territory have now been aimed at the United States, a Pentagon specialist replied, "I don't think there's been any major shift."

But other experts on Chinese nuclear forces say they were designed with the United States in mind and that they must be a factor in American military planning.

"They (the Chinese missiles) can reach Kansas City," notes Chong-pin Lin of the American Enterprise Institute. "And with the improvement of China's strategic deterrent, China can complicate the calculus of Washington if the United States should want to intervene militarily somewhere around China's periphery."

If it neutralizes the possibility of American military intervention in Asia, Lin believes, China can use its conventional weapons to intimidate its neighbors.

"China may never use the nuclear weapons, but the upgrading of its nuclear arsenal will be translated into a threat in foreign policy, economics and other non-military areas," he says.

Lin is particularly concerned about the possibility of nuclear blackmail by China in its dealings with Taiwan. In contrast, Pentagon planners, who are responsible for worrying first of all about the protection of the United States, find less cause for alarm in China's developing nuclear program.

"China's nuclear weapons are a deterrent," says a Defense Department official. "If potential enemies have nuclear weapons, you need them to be able to retaliate. China's nuclear arsenal is modest in terms of numbers, in comparison with that of the United States or the former Soviet Union. And they (the Chinese) are not preparing to have a run at matching our numbers as we come down (under existing arms-control treaties)."

All the experts agree that China is rushing to finish up its current series of nuclear tests because it can see the momentum building around the world for a treaty that imposes a comprehensive ban on nuclear testing.

"Chinese military leaders know they will soon be under pressure to get into international arms control. They need this technological advance (in their weapons program), so they don't lose anything when a freeze goes into effect," Montaperto says.

Last July, President Clinton announced that the United States would halt nuclear testing for another 15 months, so long as other nuclear powers observed the informal moratorium. And in a September speech to the U.N. General Assembly, he publicly called upon China to abandon what U.S. intelligence officials had reported were preparations for a new nuclear test.

Some of the U.S. China hands believe Clinton's action was unwise because the most the United States could ever have expected from the Beijing leadership was a delay, not cancellation, of the nuclear test.

"I thought it was particularly clumsy of this Administration to have the President call upon China at the United Nations for the nuclear test not to take place," says Douglas Paal, former head of Asian affairs for the George Bush Administration's National Security Council. "Anyone who knows China knows that would guarantee the test would take place."

Within hours after the Oct. 5 explosion in China, Clinton ordered the Energy Department to make preparations for the United States to resume underground nuclear testing next year. He stopped short of saying for sure that the American tests will start up again. It was a reminder of the extent to which China is now helping set America's foreign policy agenda.

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[From the Washington Times, Nov. 12, 1993]

MISSILE BUILDUP IN CHINA COULD THREATEN UNITED STATES

(By Martin Sieff)

China is engaged in a long-term strategic weapons buildup to achieve superpower status, which eventually could threaten the United States, defense and intelligence sources say.

The buildup involves far closer military relations with Russia and will give Beijing the capability to threaten the U.S. mainland, defense experts said.

"There is no question it enhances their future strategic threat to the United States," said a top U.S. expert on China.

China's buildup is focused on the development of a force of intercontinental ballistic missiles (ICBMs) that would have the range and accuracy to hit major Russian and American population centers and military targets, the defense sources said.

U.S. defense analysts take this development seriously because they believe 50 to 60 percent of China's current ICBM arsenal, which is far more modest and inaccurate, is still aimed at American targets, the sources said.

The Clinton administration seeks to shore up its deteriorating relations with Beijing. As part of this effort, Charles Freeman, assistant secretary of defense for regional security, visited Beijing last month to promote closer relations between the Pentagon and the People's Liberation Army.

But China's relations with Russia are a lot closer. The two giant nations signed a five-year military cooperation agreement yesterday. The pact primarily provides for exchanges of experts and other personnel, said Wu Jianmin, a Chinese Foreign Ministry spokesman.

Relations between the two militaries are already very close. China last year bought about $1.8 billion in arms from Russia, including 26 Sukhoi-27 fighters and 144 air-to-surface missiles.

China has also hired scores, possibly hundreds, of Russian scientists from former Soviet missile and nuclear programs, U.S. intelligence sources said.

"The Russian cooperation with China is one of the most important issues which is not being openly addressed by the [Clinton] administration. The Russians and the Chinese are very secretive and keep it very quiet," said James R. Lilley, former U.S. ambassador to China and South Korea and now with the American Enterprise Institute, a conservative policy group.

"The Chinese and Russian military establishments are hand in glove. They have intimate relations with each other. Their cooperation is all over the place. It's big stuff," he said.

"China has been buying nuclear and missile know-how from the former Soviet republics, especially Russia. It is now working on a mobile SS-25 intercontinental ballistic missile," said Henry Sokolski, a Pentagon officer in charge of non-proliferation in the Bush administration.

"The labs in Russia are run by former Communists, many of whom feel comfortable dealing with the Chinese. They can make some money that way and get to play around again," Mr. Sokolski said.

"The Russians have all these scientists getting $50 a month. The Chinese can offer them $3,000 a month, chauffeur-driven cars and a two-year contract," Mr. Lilley said.

Intelligence community sources told the same story.

"It's in the intelligence files," one source said. "What they're doing [is] getting the latest techniques of submarine nuclear propulsion. They're trying to solve their problems of launching missiles from submerged submarines.

"The kinds of stuff they are getting is very specialized: technology for triggering devices for nuclear weapons, solid rocket fuel, muffling technology for diesel submarines," the intelligence source said.

The U.S. government is aware of the scale of traffic in former Soviet scientists going to work in China, but its efforts to stanch the flow have been unsuccessful.

"We have gone to the Russian government and said to them, 'Please stop,' but I don't think they can. I don't think [Russian President Boris] Yeltsin knows what the hell they're doing," one source said.

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[From the New York Times, Nov. 16, 1993]

CHINESE MILITARY SEES THE UNITED STATES AS A FOE

(By Patrick E. Tyler)

BEIJING, November 15.—A Russian diplomat browsing through a bookstall here recently came across this title: "Can the Chinese Army Win the Next War?"

On the cover, President Jiang Zemin was quoted as saying, "We must win high-tech small-scale wars under modern conditions." Inside, it identified the United States as China's principal military adversary in the future and sketched out eight war scenarios, including the retaking of Taiwan, war on the Korean Peninsula and China's seizing of oilfields in the South China Sea.

It was extraordinary that such a document could be published in China, which treats any discussion of military strategy, doctrine and planning as the most treasured of state secrets.

But this thin book, which was later banned and recalled by the Communist Party authorities, is now a widely circulated attraction in Beijing's diplomatic quarter.

TRYING TO SHAPE OPINION

Western officials have linked it to a general effort by some hard-line officers of the Chinese Army and their allies in retirement and in academia to mobilize public opinion against China's potential enemies.

The appearance of the book and others like it, as well as recent leaks to Hong Kong newspapers indicating major disaffection in the army over China's recent disputes with the United States, underscores the damage to Chinese-American military relations that the Clinton Administration is trying to address.

It also underscores the extent to which China's military leaders have begun to challenge the civilian authorities over the future military policy of the world's most populous country.

From interviews with diplomats here who have contact with Chinese military officials, one thing seems clear: Tempers have been flaring.

First there was the American sale of F-16 fighters to Taiwan last year, and then in August the United States imposed sanctions on China over the transfer by China of missile equipment to Pakistan. These sanctions were announced in the midst of the Yinhe episode, which turned out to be a case of mistaken intelligence in which Washington said the Chinese cargo ship Yinhe was carrying chemical-weapon ingredients to Iran. An inspection proved that it was not.

"The military was one of the institutions in China that was particularly offended by the sale of F-16's to Taiwan last year," a Western diplomat here said. He added that there were "elements" in the Chinese military who would like their civilian leaders "to show more gumption in standing up to the United States."

GENERALS CONFRONT PRESIDENT

A Hong Kong journal with close ties to Beijing recently carried an account of a confrontational meeting between President Jiang and his generals on Sept. 8, and this account has been taken as credible by some analysts here. Eight senior generals led by Defense Minister Chi Haotian were said to have met with Mr. Jiang to express their frustration over the "soft stance" Beijing was taking toward American "hegemonism" and "power politics."

AN EMOTIONAL MEETING

The generals were said to have become "very excited during the meeting" and presented the President with a petition signed by 180 high-ranking officers demanding that China "take a solemn and just stand" against the United States.

Mr. Jiang was said to have calmed the generals by reminding them that since China had developed nuclear weapons in the 1960's, "we are no longer afraid of the threats and bullying of the two hegemonists," meaning Russia and the United States. But the intensity of the encounter reflected the depth of convictions in the military.

Strong mistrust toward American intentions was also apparent from the 80-page book of military analysis that caught the eye of the Russian diplomat this fall. Though the book was written under a pen name and published by Southwest Normal University Press in Sichuan Province in June, it betrayed the knowledge and experience of a seasoned member of the Chinese military establishment, diplomats here say.

"Although at present, China does not pose a real threat strategically to the United States, the United States still considers China a hypothetical target in its regional defense strategy," the banned analysis says. "Because of serious opposition and differences in ideology, social system and foreign policies between China and the United States, it would be impossible to improve fundamentally Sino-U.S. relations."

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[From the Wall Street Journal, Oct. 14, 1993]

U.S. FEARS CHINA'S SUCCESS IN SKIMMING CREAM OF WEAPONS EXPERTS FROM RUSSIA

(By John J. Fialka)

WASHINGTON.—China's success in recruiting Russian weapons experts and acquiring nuclear and ballistic missile technology sends a shudder through the Clinton administration, which fears China's efforts will eventually enable its strategic nuclear forces to reach the U.S.

According to government officials, as many as a thousand technicians, scientists and engineers from Russia's previously top secret weapons complexes have been recruited to come to China for high salaries and reportedly lavish living allowances.

Meanwhile, Russia's system for keeping track of its weapons scientists has broken down. And a $100 million international effort, led by the U.S., to give the scientists work has been stalled, despite more than a year of preparations.

One State Department official, who asked not to be identified, called the situation "extremely unfortunate." The Chinese are exploiting a situation where "the cream of the weapons community wasn't being paid salaries last summer," the official said.

REQUESTS FOR DEMARCHES

Another official said several specific incidents involving the accelerated eastward flow of experts and technology have triggered requests for diplomatic protests, called demarches, against both Russia and China, moves that were rejected by the State Department because of the current sensitivity in dealings with both countries. However, a State Department spokesman said he wasn't aware of any demarches that had been dropped.

The recruitment of weapons experts is only one aspect of China's aggressive pursuit of Russian technology, including the SS-25, Russia's most modern, mobile intercontinental ballistic missile. Chinese experts are visiting Russian defense plants, and weapons

designs and mathematical modeling work are being sent to China by electronic mail from Russian weapons laboratories. "You don't have to leave the country to be recruited," declared one official.

"In Russia, they can go recruit these guys semi-openly," said James R. Lilley, U.S. ambassador to China and Defense Department official during the Bush administration. He said the Chinese media has reported that as many as 3,000 former Soviet experts have been recruited for salaries as high as $2,000 a month each, plus housing, a car and living expenses. "With the Chinese," he said, "they can get cash on the barrelhead."

A BONANZA FOR CHINESE

Mr. Lilley, now an analyst at the American Enterprise Institute, a private research foundation here, called the transfer a "bonanza" for the Chinese. With Russia's help, he asserts, China's military is making a major shift from a land-based defense force to one capable of projecting military power throughout the Far East and beyond.

China's focus on more modern nuclear weapons and long-range missiles, he said, violates at least two treaties and will eventually "threaten U.S. vital interests in the Pacific."

Chinese officials have played down their military modernization efforts, including a recent nuclear test, claiming their defense budget is a relatively tiny $7.3 billion. But Mr. Lilley claims larger amounts are hidden in other agency budgets.

Meanwhile, the Central Intelligence Agency last week told the Senate Government Affairs Committee that the Russian government's power to control the exodus of its weapons scientists has largely evaporated. "A centralized automated data system containing information on citizens who possess state secrets does not exist," the CIA noted in a written statement.

CORRUPTED BY BLACK MARKET

Russia's Internal Affairs Ministry, which issues passports, has been overwhelmed with requests and "corrupted" by black market operators and commercial firms generating passports and visas on short notice, the CIA said.

The potential problem was anticipated by both the Bush administration and key committees in Congress in the winter of 1991. The U.S. then committed $35 million to establish centers in Moscow and Kiev that would function as job clearinghouses for former military scientists seeking commercial research work.

Though Japan, Canada and European countries later boosted the funding to nearly $70 million, objections from Russia's Parliament and from Ukraine politicians stopped the centers from opening.

The State Department official said preparatory work on the centers is completed. Citing economic desperation being faced by nuclear experts in such closed military cities as Arzamas-16 and Chelyabinsk-70, the official said, "We are really seeing the conditions now to which these centers were designed to respond."

## LAW ENFORCEMENT SUPPORT FOR S. 1607

Mr. BIDEN. Mr. President, the full Senate has spoken emphatically in favor of comprehensive crime legislation. The crime bill now fully funds $22.3 billion in comprehensive anticrime programs including: $8.9 billion to fund 100,000 police officers; $6 billion in aid to State and local prisons, jails and military-style boot camps; $250 million for rural anticrime efforts; $1.2 billion for drug court programs targeting drug offenders now released on probation; $500 million for secure prisons for violent juvenile offenders; $300 million to prevent crime in the Nation's schools; and $100 million to combat violent youth gangs.

In addition, this bill provides the largest ever expansion of the Federal death penalty, more than 60 penalty increases and new offenses, covering violent crimes, drug trafficking and gun crimes.

Of course, final passage of this bill was the product of efforts from many quarters. But, none have worked longer, harder or with more dedication than the leading State and local law enforcement officials of this country. For the past 4 years, these leaders have worked closely with me to make comprehensive crime legislation a reality. I expressed my gratitude to the leaders—and the members—of these organizations earlier this week, but I would like to again offer my thanks for the many months of effort devoted by the Nation's law enforcement officers. A list of these organizations follows, and I ask unanimous consent that this list be printed in the RECORD along with the letters sent by all these leaders:

Robert T. Scully, Executive Director, National Association of Police organizations;

Dewey Stokes, National President, Fraternal Order of Police;

Kenneth T. Lyons, National President, International Brotherhood of Police Officers;

Sylvester Daughtry, Jr., President, International Association of Chiefs of Police;

Charles "Bud" Meeks, Executive Director, National Sheriffs' Association;

Joseph M. Wright, Executive Director, National Organization of Black Law Enforcement Executives;

James M. Rhinebarger, Chairman, National Troopers Coalition; and

Joseph Papili, President, Delaware State Troopers Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
*Washington, DC, November 10, 1993.*

Hon. JOSEPH R. BIDEN, Jr.,
*Chairman, Committee on the Judiciary, Senate Office Building, Washington, DC.*

DEAR SENATOR BIDEN: Please be advised that the National Association of Police Organizations (NAPO), representing over 145,000 sworn law enforcement officers in over 2000 police associations throughout this country, enthusiastically gives its wholehearted and unqualified support for the passage of "The Violent Crime And Law Enforcement Act of 1993" (S. 1607). NAPO is excited by the fact that this bill includes $22.3 billion to assist law enforcement in their anti-crime programs including: $8.9 billion to fund 100,000 local law enforcement officers; $6 billion in aid to state and local prisons, jails and military-style boot camps; and money that will address crime in rural America; drug court programs targeting drug offenders now released on probation; secure prisons for violent juvenile offenders; crime prevention in the nation's schools and combat violent youth gangs.

NAPO sincerely hopes that the Kohl amendment which prohibits the sale and possession of handguns by juveniles and the assault weapon amendment sponsored by Senator's DeConcini, Feinstein and Metzenbaum remain intact and is passed as part of S. 1607. Even though NAPO always has been and continues to oppose the Police Corp Program and additionally, NAPO was hoping to have included in this crime bill the Law Enforcement Officers Bill of Rights, NAPO still throws its support behind the most comprehensive anti-crime bill ever to have passed either body of Congress.

Sincerely,

ROBERT T. SCULLY,
*Executive Director.*

FRATERNAL ORDER OF POLICE,
*Columbus, OH, November 9, 1993.*

Hon. JOSEPH BIDEN,
*U.S. Senate, Washington, DC.*

DEAR JOE: On behalf of the Fraternal Order of Police, which represents 248,000 rank-and-file police officers nationwide, I am pleased to advise you of our support for the comprehensive omnibus crime bill (S. 1607, as amended thus far) which you are now guiding through the Senate.

Although floor action on this important legislation is not yet completed, I did want to take this opportunity to commend you for all that you have done to move this measure forward and to strengthen it along the way. We are particularly pleased with the funding language added last week which, at least in theory, would provide approximately $22 billion worth of various anticrime initiatives. We also note the deletion of the Byrne Grant "hammer" as initially contained in the habeas corpus section of S. 1488, and applaud your efforts to remove this language.

While the crime bill now before the Senate is not perfect, it does represent the triumph of what is possible over what would be ideal. An ideal crime bill would contain a "Police Officers' Bill of Rights," a ban on certain types of semi-automatic assault weapons along the lines of legislation posed by Senator DeConcini, and the deletion of the "Police Pattern and Practice" language which originated in the House last session. Regardless of these problems, however, the legislation as it stands this afternoon is an important step forward and you are to be commended for it.

The FOP regards S. 1607, as amended thus far, as the most significant federal effort to combat violent crime in America in recent memory. We would urge you to continue to resist any amendments which would alter the objectives of this legislation and, on behalf of the law enforcement community, we salute you for your efforts on our behalf.

Sincerely,

DEWEY STOKES,
*National President.*

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
*Arlington, VA, November 10, 1993.*

Hon. JOSEPH R. BIDEN,
*Committee on the Judiciary, Washington, DC.*

DEAR MR. CHAIRMAN: The International Brotherhood of Police Officers (IBPO) represents more than 40,000 federal, state and local rank and file law enforcement officers across the country. IBPO is the largest law enforcement officers union in the United States. Today we write to inform you of the

IBPO's strong support and endorsement of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993.

The IBPO has long advocated comprehensive efforts to address violent crime where it occurs: at the state and local level. S. 1607 represents historic achievements to accomplish this goal. The bill fully funds a total of $22.3 billion in anti-crime programs. Most importantly, the bill provides $8.9 billion to fund 100,000 police officers. The decision to not only authorize but appropriate the resources required to put additional officers on the streets truly recognizes the importance of providing resources to state and local police who are responsible for over 95 percent of the arrests made in the United States.

S. 1607 provides $6 billion in aid to state and local prisons, jails, and boot camps, $150 million towards educational initiatives for current law enforcement officers, $100 million to combat violent youth gangs, $300 million to prevent crime in the nation's schools and $1.2 billion for drug courts that require drug testing, treatment and alternative punishment for young drug offenders.

In addition, S. 1607 takes other critical steps to combat crime. For example, S. 1607 enacts a ban on certain semi-automatic assault weapons. As you know from our recent testimony before the Senate Judiciary Committee, the IBPO supports reasonable efforts to curb proliferation of military-style assault weapons that have no legitimate sporting purpose. In addition, S. 1607 incorporates the provisions of the Violence Against Women Act, which takes a comprehensive approach to reducing domestic violence.

S. 1607 is, by far, the most comprehensive legislation Congress has ever proposed to combat violent crime. The IBPO wishes to thank you for your continued dedication of the highest quality to law enforcement issues. We urge the Senate to take swift action to approve S. 1607.

Sincerely,

KENNETH T. LYONS,
*National President.*

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INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
*Arlington, VA, October 22, 1993.*

Hon. JOSEPH R. BIDEN, Jr.,
*U.S. Senate, Washington, DC.*

DEAR SENATOR BIDEN: The International Brotherhood of Police Officers is an affiliate of the Service Employees International Union, the fourth largest union in the AFL-CIO. The IBPO represents over 40,000 state and local law enforcement officers across the United States and is the largest police union in the country. I am writing today to urge you to support S. 496, the Gun Dealer's Licensing Reform Act, introduced by Senator Simon, which would create reforms to the Federal Firearm Licenses System.

S. 496 allows the Bureau of Alcohol, Tobacco and Firearms to effectively weed out those abusing the system from the majority of honest, law-abiding firearm dealers. S. 496 increases the license fee for firearm dealers from $10 to $750. The current fee has remained unchanged since enactment of the Gun Control Act of 1968; this increase accounts for inflation and additional costs associated with processing and inspection.

In addition, S. 496 tightens loopholes present in the current system. The bill drops the 45-day requirement for action on firearm dealer license applications, allows ATF agents to investigate a dealer more than once a year, if necessary, and requires dealers to report shortages in firearm shipments, or lost or stolen inventory to the Bureau. Finally, the bill would require dealers to certify that they are in compliance with state and local laws before receiving a new license.

Through these provisions, S. 496 prevents the circumvention of state and local laws and ensures the enforcement of federal firearms laws. For example, in the District of Columbia, local laws ban the sale of handguns, but a federal license can still be granted. Passage of S. 496 insures the rank-and-file officers we represent consistency in the enforcement of firearms laws.

Earlier this year, Senator Simon attempted to amend the FY94 Treasury and Postal Service Appropriations Bill to include an increase in the license fee. Although this amendment was defeated by a vote of 30-68, we thank you for your support and, in addition, urge your support for S. 496, a common sense and comprehensive package which allows legitimate gun dealers to continue their business and local law officers to enforce the law.

If you have any questions or comments, please do not hesitate to contact my Legislative Director, Chris Sullivan, at your convenience.

Sincerely,

KENNETH T. LYONS,
*National President.*

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INTERNATIONAL ASSOCIATION OF CHIEF OF POLICE,
*Alexandria, VA, November 10, 1993.*

Hon. JOSEPH R. BIDEN, Jr.,
*Chairman of the Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN BIDEN: The International Association of Chiefs of Police (IACP) has watched with interest the development of your bill S. 1067, the "Violent Crime Control and Law Enforcement Act of 1993." IACP believes that the bill and the various amendments that have been debated and added over the last week will go a long way toward addressing violent crime in this country. You and your fellow Senators, especially Senator Hatch, are to be commended for your efforts.

We continue to have concerns about the funding levels and effectiveness of the Police Corps provisions. As you know, and as is articulated in the attached IACP resolution, we will continue to resist this proposal that we believe to be a wasteful use of scarce taxpayers' dollars. We are pleased however, by your assurances that the final bill will not include a "police officers bill of rights."

As was pointed out repeatedly during the debates, fighting crime in the United States occurs primarily at the state and local level. Strong actions and laws must begin at these levels. But the federal government can, and by this legislation will, provide coordinating leadership and needed funding to insure that the nation puts more police officers on the streets, incarcerates violent criminal offenders, provides remedial programs and treatment for non-violent offenders, and develop preventative programs to dissuade future generations from involvement with guns, gangs and drugs.

Again, the IACP commends the efforts of you and your colleagues in the State and look forward to working with you on other matters we have discussed to combat violent crime.

Sincerely,

SYLVESTER DAUGHTRY, Jr.,
*President.*

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NATIONAL SHERIFFS' ASSOCIATION,
*Alexandria, VA, November 10, 1993.*

Hon. JOSEPH R. BIDEN, Jr.,
*U.S. Senate, Washington, DC.*

DEAR SENATOR BIDEN: Congratulations on your masterful work on the Crime Bill which is now before the Senate. The Sheriffs of the United States are deeply grateful for your commitment to legislation which will attack the crime problems which are of such concern to the entire nation.

We at the National Sheriffs' Association are satisfied with the progress of the crime bill. Rural crime issues are being addressed in an appropriately aggressive fashion. Monies are being designated for much-needed jail and prison construction. We are pleased to note that the Triad amendment will direct attention to the concerns about crimes affecting the elderly.

Sheriffs nationwide support the crime bill. We trust that your colleagues will agree with you and vote to enact legislation at the earliest possible date.

Sincerely,

CHARLES B. MEEKS,
*Executive Director.*

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NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES,
*November 10, 1993.*

Senator JOSEPH R. BIDEN, JR.,
*Chairman, U.S. Senate Committee on the Judiciary, Washington, DC.*

DEAR SENATOR BIDEN: On behalf of the membership of NOBLE, I write to commend you for your untiring efforts with respect to the most significant comprehensive anti-crime bill that has ever been considered in the United States.

Furthermore, we urge Congress to include a ban on the manufacture and sale of military-style assault weapons. Candidly, we are puzzled as to why anyone would consider to do otherwise, unless they were directly involved in the manfuacturing and/or sale of weapons of that type.

Also, we strongly support the inclusion of boot camps, innovative drug programs, and creative efforts to negate the violent activity of youths.

Keep-up the good work and let us know what we can do to assist in getting the crime bill passed now.

Take care and best regards

Sincerely,

JOSEPH M. WRIGHT,
*Executive Director.*

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NATIONAL TROOPERS COALITION,
*Albany, NY, November 15, 1993.*

Hon. JOSEPH R. BIDEN, JR.,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR SENATOR BIDEN: We applaud you for your continuing efforts in combating this Nation's escalating crime problem. We know that you are deeply involved at the present time in attempting to work out an acceptable and effective crime bill. The National Troopers Coalition is extremely interested in the passage of legislation that will effectively deal with our Nation's crime problem.

We stated the views of the NTC to you on s. 1488 a few weeks ago. Since that time, you have introduced a separate bill. S. 1607. In addition, it is our understanding that certain provisions of S. 1607 relating to habeas proposals have now been detached and will be considered separately.

Since events with respect to the crime bill are fast moving at this point, we wanted to simply restate the NTC's position on this legislation. First, the NTC strongly supports proposals that will provide for funding for additional state and local police officers. Second, the NTC supports funding to aid state and local prisons, jails and military style camps, and to construct regional prisons for state offenders from states which

have truth-in-sentencing statutes with respect to violent offenders. Third, the NTC supports legislation that contains genuine habeas reform, which (a) preserves Supreme Court decisions, rather than retraining from them, (b) prevents relitigation of constitutional issues determined in state proceedings where the petitioner had a full and fair opportunity for review, (c) contains effective time limits on the filing of habeas petitions, and (d) does not impose cumbersome and costly counsel requirements in state capital cases. Fourth, the NTC supports legislation that would reform the exclusionary rule to allow the admissibility of evidence seized under objectively reasonable circumstances. Fifth, the NTC supports the "Brady Bill" and wishes to compliment you on your tireless efforts on this particular legislation.

Our organization is committed to continue working with you and the other congressional leaders in Congress to pass tough and effective crime legislation. We do support you on the Violent Crime Control and Law Enforcement Act of 1993.

Sincerely,

JAMES A. RHINEBARGER,
Chairman.
JOHNNY L. HUGHES,
Chairman, Legislative and Congressional Affairs.

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DELAWARE STATE TROOPERS ASSOCIATION,
*Dover, DE, November 10, 1993.*

Hon. JOSEPH R. BIDEN, Jr.,
*Chairman, U.S. Senate Judiciary Committee, Washington, DC.*

Dear Senator Biden: The Delaware State Trooper Association strongly supports your Crime Bill S. 1607. After many years of debate in Congress this bill is an important piece of legislation for law enforcement and the American public.

We recognize that there will never be a perfect crime bill, however, S. 1607 contains many areas of Public Safety that are important in reducing crime in America. Everywhere in America crime is a major topic of discussion and concern. With the passage of this bill it will enable Law Enforcement to impact reducing crime.

We applaud the Senate Judiciary Committee and your efforts in pushing for passage. Please do not hesitate to call if we can be of any assistance to you or your staff in getting this Bill to the President.

Passage of this Bill is of major importance to all Americans.

Sincerely,

JOSEPH PAPILI,
*President.*

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## TRIBUTE TO STUART MOLDAW

Mrs. FEINSTEIN. Mr. President, it gives me great pleasure to rise today to acknowledge and congratulate Mr. Stuart Moldaw, who was recently confirmed as Alternative Representative of the United States to the United Nations. I have known Stuart Moldaw for many years and can think of no one more qualified and deserving of this prestigious position.

In 1949, Mr. Moldaw graduated from Syracuse University with a bachelor of science degree in marketing and economics. His first position was as a buyer for a department store based in Connecticut. He quickly rose up the corporate ladder, and in 1955 he moved to California to become a regional supervisor for Lerner Shops.

Four years later, Mr. Moldaw went into business for himself. He organized Stuart G. Moldaw Enterprises, operating Country Casual Stores, which he sold in 1970. This was only the beginning of his string of successful entrepreneurial pursuits which have continued through today. In this 34 year span, Mr. Moldaw has founded and/or owned a variety of well known and highly recognized companies, including Ross Stores, Inc., Home Express, Avia Shoe, Home Club and Athletic Shoe Factory. He co-founded U.S. Venture Partners, which has become one of the largest venture capital firms in the country.

Mr. Moldaw has since decided to move into the next stage of his career, which involves phasing out his business activities and focusing on the challenges of government service. Mr. Moldaw articulates the motivation for this change:

> As I look back on my career, my strongest motivation comes from the creative aspects of my efforts and the sense of contributing something to the community * * * In the larger world, this kind of motivation translates to a sense of service to the greater good utilizing the entrepreneurial skills I have learned. As I look at the world and see the selfishness and discord that prevails, I want to work at equalizing opportunities and bringing people closer together.
>
> In my numerous business deals, I have learned the delicate art of bringing opposing factions together and discovering an acceptable compromise so both parties leave the table satisfied * * * I believe my many years as a skilled negotiator, communicator and administrator will help me serve our government.
>
> I am a self-made businessperson, starting out with absolutely nothing but a desire to do well for myself and my family. I have had the good fortune of being financially successful beyond my wildest dreams. I think that only in the United States could this be accomplished. As a result, I have a strong feeling of wanting to give something back to my country.

As an entrepreneur specializing in consumer products, specialty retailing, and real estate industries, Mr. Moldaw has established himself as an effective leader and innovator. These qualifications, combined with his compassionate managerial style and unwavering support of social justice, will certainly translate into tremendous success in his new post.

I am sure that Stuart Moldaw will serve dutifully and honorably as the Alternative Representative of the United States to the United Nations. I commend his wife, Phyllis, his two daughters and three grandsons for their support of Stuart's rise to this new challenge. I know he will make them, as well as our country, very proud.

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## NATIONAL OPTICIANS MONTH

Mr. HELMS. Mr. President, every January for many years has been designated National Opticians Month in honor of some very special professionals who mean a great deal to the American people.

The sponsor of this observance is the Opticians Association of America. And, Mr. President, this year's leader of that fine association is a distinguished North Carolina lady, Mrs. Patricia M. Tolar of Carrboro, NC.

Most Americans' impressions of the world around us come chiefly through our eyes. And to make the most of the precious gift of sight, nearly 60 percent need vision help, most of whom need eyeglasses, contact lenses, or some other form of vision aid.

Mrs. Tolar and her skilled colleagues provide the expert assistance needed by so many. Modern technology has made available literally thousands of possible combinations of eyeglass frames and lenses as well as a wide variety of contact lenses and low-vision aids. Dispensing opticians play a vital role in guiding eyewear consumers to the specific combination that fits their individual needs.

Mr. President, through formal education programs, voluntary national certification, mandatory licensing in many States, and programs of continuing education, dispensing opticians acquire the skills and competence to assist eyewear consumers and fill their eyewear prescriptions correctly, efficiently, and effectively.

Moreover, retail opticians are an important part of the Nation's small business community. They provide the competitive balance that keeps eyewear affordable for so many Americans.

I am pleased to acknowledge the essential role of dispensing opticians as they help all of us make the most of our eyesight. I reiterate my pride that North Carolina is home to this year's president of the Opticians Association of America.

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## A TAX ON MEDICAL DEVICES

Mr. HATCH. Mr. President, for the benefit of my colleagues I would like to submit a letter from the Utah Biomedical Industry Council in response to an article in the July 14 edition of the Wall Street Journal entitled "Medical-Device Firms Seek User Fees to Expedite FDA Product Applications." The letter makes an excellent case for why the imposition of a user fee could amount to a tax on medical devices.

With the enactment of the Medical Device Amendments of 1976, Congress authorized the U.S. Food and Drug Administration to provide reasoned and consistent regulatory oversight with regard to the safety and effectiveness of medical devices in the United States. Over the past several years, however, the FDA has come under increasing criticism for its implementation of these and subsequent amendments to the Act.

I want to point out that both the health care industry and consumers need and expect the FDA to do a good job. Indeed, the efficient and timely implementation of this regulatory program should serve to improve the overall health of American citizens as well as to create jobs at home and enhance economic growth for the country.

As an example, 248,000 workers were employed in the health care technology industry in 1990, which generated some $31.2 billion in the production of health care technology products. The industry consists of highly diverse manufacturers, both large and small, which produce a vast array of life-saving and life-enhancing equipment and supplies that have benefited millions of Americans.

The industry, however, is now faced with ever-increasing gridlock due to the FDA's inefficient product review and approval process. The FDA's proposal to impose so-called user fees, allegedly to expedite and improve the product review process, simply will not solve the problem. The imposition of a fee or tax will not contribute to a more efficient and effective regulatory system, which should be our primary goal. I am fearful that it would only serve as another round of taxes that inhibit innovation and growth.

I commend the Utah Biomedical Industry Council for the insight shown in their letter to the Journal. I ask unanimous consent that the text of the letter be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UTAH BIOMEDICAL
INDUSTRY COUNCIL,
*Salt Lake City, UT, August 6, 1993.*

NED CRABB,
*Letters Editor, The Wall Street Journal, Dow Jones & Company, Inc.*

DEAR EDITOR: We were upset with the theme of the article "Medical-Device Firms Seek User Fees to Expedite FDA Product Applications" in the July 14, 1993, Wall Street Journal. While some of our country's major corporations may see user fees as an acceptable cost of doing business perhaps even a means of thwarting competition, those of us who are closer to the entrepreneurial end of the business have grave concerns over this issue. In fact we question the accuracy of the data presented in your article. We believe that the majority of medical device companies oppose user fees because the imposition of such fees will not address the crux of the problem at the FDA.

The current gridlock at the FDA is not simply the result of inadequate funding. It's an issue of balance, efficiency, and judgement. The FDA is one of many government agencies whose never-ending growth seems inversely proportional to its ability to accomplish its primary mission. Its reach has exceeded the original Congressional intent. The time has come to re-evaluate the system, not just throw more money at it, particularly when the proposed method of funding risks the catastrophe of reforming the medical device industry along the lines of the pharmaceutical industry. It would mean the death of entrepreneurial, innovative small companies that make up 80% of the American medical device industry. Large companies would benefit temporarily if the industry were consolidated to a few monopolistic corporate entities relying solely on price increase to produce growth, but the long term results would be worse medicine for every American.

Few people recognize that the FDA's primary mission, as stated in the 1976 Medical Device Amendments to the Food, Drug and Cosmetic Act, was to balance the need for safe and effective devices with the need for continued advances in medical device technology. Unfortunately, the Center for Devices and Radiological Health evolved in an atmosphere where no credit was given to people within the agency for fostering the introduction of new and better devices. Contrarily, they only received attention—in the form of criticism—when something went wrong with a medical device. Thus, they naturally focussed their attention on correcting problems, real or perceived, with products already on the market. They became increasingly fearful of making a mistake. Ergo, it was better to delay a new product's introduction than to let it on the market and risk having to answer some unknown problem that might appear later on.

New knowledge has accelerated technological progress in our laboratories, but certain aspects of education and training in our society have not kept pace. The technical experts within the FDA cannot be expected to keep up with the myriad of disciplines that fall under the umbrella of foods, drugs, and medical devices. In spite of this reality, the public has developed an attitude that risk-free medicine should not only be possible, but is somehow a God-given right which the government is obliged to guarantee. Isolated scandals involving inappropriate relationships between government regulators and greedy private interests coupled with the unrealistic and conflicting demands of Congress and special interest groups have driven FDA workers to focus more introspectively, eschewing outside input and advice. It is as if the FDA requires the answers to be apparent before the questions are asked. The result—gridlock.

New and better techniques of manufacturing and quality control are constantly evolving. Today's entrepreneurs must not only be innovative in their fields of expertise but they must implement total quality control if they are to be successful. The challenges to small, growing companies are enormous. What is our government doing to create an environment favorable to success and thereby help such companies keep America first in medical devices? The FDA sends in investigators to shut companies down. The rationale is one of enforcement rather than encouraging safe and effective new devices through education.

Congress established the Division of Small Manufacturers' Assistance specifically to insure that the Medical Device Amendments of 1976 would not be overly burdensome to small businesses and thus cripple the growth of our industry. In the past few years, 50% of the staff of that Division has been transferred into regulatory compliance areas. The very people whose mission was to ease the regulatory burden were transferred into the negative "find them doing something wrong and shut them down" part of the agency. This current negative imbalance is killing the medical device industry in America. Will user fees correct the problem? We don't think so!

User fees are a tax. If put upon the medical device industry they will be a tax on innovation because that is the nature of the industry. This tax will further aggravate the present imbalance by adding an additional burden to those of us who are striving to develop and introduce new, more advanced medical products. Following the course we have set, America is sure to lose its leadership in medical device technology. User fees will simply accelerate the inevitable end.

Truly innovative products are held up at the FDA more by the problems with the agency's approach than any lack of funding. Such products automatically fall into the FDA's Class III designation where there are few experts in the agency equipped to deal with a truly new technology. Even low or no-risk products get stuck in this logjam if they have no pre-1976 "substantially equivalent" antecedents. Risk assessment with any new technology is imperative, but if the FDA would use outside experts early in their deliberations, months or even years could be cut off the time to gain permission to submit your product to the marketplace. Appropriate attention to this single criticism could reduce the agency's expenses enormously.

The agency has been criticized for holding up very simple "me-too" products (e.g., a tongue depressor) by forcing such manufacturers to jump through the same hoops required of manufacturers that produce much more complex products. In fact, the vast majority of medical devices being regulated by the FDA do not pose significant risks. Except for critical medical devices that threaten, save, or sustain life, the medical device industry would be much more efficiently regulated by the competitive pressures of the global economy. Health care professionals are competent, discerning, and critical where medical devices are concerned. They are, and will always be, the best and final arbiters of whether a medical device is worthy of market success. Unless the risk to public health is sufficient to warrant regulatory intervention, it is folly to interpose a government bureaucracy between the industry and the marketplace.

We in the medical device industry have an obligation to educate the public. Americans at large are seemingly unaware that the FDA's administration of the medical device laws is jeopardizing the most dynamic health care system in the world. The concept of risk-free medical care is noble, but is in reality an insupportable tenet. We accept risk in every endeavor pursued or encountered. Were this not true, much of the need for medical practitioners and their devices would not exist. Placing such expectations upon the industry therefore defies logic and common sense.

Were the agency and the regulations to be reformed for the genuine public good we might expect the following: A government agency staffed to complement the knowledge base of medical practitioners and industry; a sensible regulatory scope that restricts only those devices posing a significant threat to the public health; kudos given for successes rather than failures; public education or "advertising" of the process and ensuring results; a uniform standard of expectations understood within the agency and within industry; a willingness to enlist outside resources when necessary and appropriate; an understanding of market place forces as opposed to capricious regulation, and the inference that such regulation always results in a better product; and an agency using its resources to become more efficient, not one using resources to expand further inefficiencies.

Congress has called for substantial reforms within the FDA to eliminate the current gridlock. Congress must act to influence more than just the rules for processing market clearance applications through the FDA. It must direct the FDA to employ sensible and realistic risk assessment with respect to medical devices and relinquish control of low-risk devices to free market forces. The climate at the FDA must be changed to bring about incentives for a balanced regulatory approach. We must not allow medical device innovation to be sacrificed upon the "sacred" FDA altars of safety and efficacy. User fees are a step in the wrong direction!

Sincerely,

WM. DEAN WALLACE, MD, Ph.D.,
*Chairman, Utah Biomedical Industry Council.*

## JUSTICE RUTH BADER GINSBURG

Mr. MITCHELL. Mr. President, recently some friends of the newest Supreme Court Justice, Ruth Bader Ginsburg, honored her at a dinner. Vice President GORE and Mr. Sanford Greenberg both spoke, and I believe the sentiments they expressed are those of many to whom Justice Ginsburg has been an inspiration.

I ask unanimous consent that the texts of these remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. Sanford Greenberg. Sue and I are delighted to welcome you to our home this evening. Before I introduce the Vice President, let me tell you the story of a woman named Ruth. She is a modest woman with a hard-earned reputation for decency and courage. At an early age, she confronts the death of a close family member. Then, offered the opportunity to live a traditional life, she opts instead for change and endures all the trials, tribulations and uncertainties change produces. In the end, Ruth falls in love with a warm and caring man, himself a prominent figure, and, with his unflagging support, goes on to take her place in history.

Sound familiar? Of course. It sounds like the story of Ruth and Marty Ginsburg. And it is. But it is also the story of Ruth the Moabite, the protagonist of the Old Testament Book of Ruth and the greatgrandmother of King David. Widowed as a young woman, Ruth the Moabite rejects her mother-in-law Naomi's advice to stay in Moab to seek a new husband; instead, she chooses to leave all that she has known and accompany Naomi to Israel. "Whither thou goest, I will go. Whither thou lodgest, I will lodge. Your people shall be my people and your God my God". There she meets and marries Boaz, a kinsman of her late father-in-law. They beget Obed, who begets Jesse, who begets David.

Why do I speak of this ancient heroine? First, like Justice Ginsburg, she reminds us of the proud heritage of Biblical women—indomitable, loyal to faith and family but willing to take on the unknown. Second, just as the historical Ruth played a pivotal role in ensuring the continuing greatness of her people, I believe our Ruth has an historic role to play in helping the Supreme Court find its way from its past glories to a future greatness so important to our society. Finally, on a personal level, Sue and I see in our beloved friend and neighbor the same beautiful human qualities that endeared Ruth to Boaz. Without being presumptuous, I hope, Sue and I imagine it was these same qualities that endeared Ruth to the President and to the Vice President.

I first met the Vice President a number of years ago. With my usual subtlety, I told him that I believed one could no longer govern our country effectively without a working knowledge of international economics. Several weeks later, to my amazement and delight, he called, said he had been thinking about what I had said, agreed, and would I help him gain such a working knowledge. Thus began for me an extraordinary journey which culminated in the economic "teach-in" the President and the Vice President conducted in Little Rock just after the election.

If I didn't know him as I do, I would think that Al Gore is too good to be true. He has the intellectual vigor and capacity to take on subjects as big as the great outdoors—come to think of it, he even takes on the great outdoors. He is a devoted family man and a loyal friend and as Tipper said recently, he has now become a star of late night television.

At a time when it is particularly challenging to find role models for our children, I take great pride in counting among my friends a man whose life, intellect and character embody all that is best in America. The Vice President of the United States, Al Gore of Tennessee.

Vice President Al Gore. What a wonderful, warm occasion for all of us to share with Sandy and Sue. I know that I speak for everyone here, Sandy and Sue, in saying thank you so much for putting this together for your friend Ruth and for all of us. It is great to be here. May I say to all of you that Tipper and I count Sandy and Sue among our closest friends; they have been very warm to us for many years. Sandy mentioned this really unusual series of learning experiences that we shared together over a period of years. We got people right on the cutting edge to come in to try to deal with the monumental problem of my ignorance about the changes in the economic structure of our country and the world. We learned a lot together and it was a lot of fun. Sue and Tipper work together closely now and we have enjoyed it a great deal.

What an extraordinary gathering this is. The Judiciary and Executive branches, I see General, excuse me, Ms. Reno. She told me recently about the derivation of the phrase Attorney General. Apparently, in England, there were two kinds of attorneys, one for general matters. The phrase originated from that, although it now has a kind of military rank to it. But over where we live, up there, over in our neighborhood, when people get lost and try to figure out their way, they say, "Follow Reno." That is sort of what we are doing in this administration.

I see my pal, Eleanor Holmes Norton, my colleague in the Congress. I still have a little role in the Congress. You may have noticed, incidentally, that every time I vote, we win. I do other things. I come over to the House chamber because the President put me in charge of technology. I made it a point to sit behind him during the State of the Union speeches in case something went wrong. But Eleanor and I have worked together very closely on a number of matters and now are working together on the reinventing government project. I also see Jim Woolsey and his wife Sue. We have been spending an awful lot of time together. Jim's moved in and has really done a bang up job at the CIA. And, you know, when I look at these appointments, the person who is really due the credit for finding talented people like Attorney General Janet Reno and Judge Ruth Bader Ginsburg and Jim Woolsey now, is Bernie Nussbaum. Bernie and Toby are both here and Bernie is about the closest friend I have in the White House. We go around a lot together and have hallway conferences on a regular basis, and may I say about our guest of honor, that there is no way I could compete with or top the wonderful words Sandy has said about Justice Ginsburg and her husband Marty. It is a true honor for us to be with you this evening.

Our sixteen year old daughter Kristin had one of the great thrills of her life this past weekend when she sat behind the Justice at Cirque de Soleil. Our brother in-law was bolder than she and brokered a little encounter there. But here's the point that I want to make. She was thrilled not so much because of your position on the Supreme Court; that was important, but as part of a project at school, she had gone just a little bit beyond her former depth and taken on an assignment to learn about the Quasi Suspect Classification used for women and the scrutiny test applied to such Suspect Classification. And she had read every word of a 1978 law review article, and she said, "Dad, this is just awesome!" It was such a wonderful thing for us as parents to see her mind just lit up by your words and the power of your logic and your arguments. It really was a great feeling.

Now I am reminded of a quotation from the book "Anatomy of a Murder," the best seller of years ago. "Judges, like people, can be divided into four classes: judges with neither head nor heart—they are to be avoided at all cost; judges with head but no heart—they are almost the same; then judges with heart but no head—risky but better than the first two; and finally those rare judges who possess both head and heart"—that is Justice Ginsburg and we are honored to be here with you this evening and in this wonderful house.

Justice Ruth Bader Ginsburg. Thank you so much. I'm overwhelmed. And first I hope all of you will join me in a toast to the best neighbors anyone could have, Sue and Sandy Greenberg. May I offer one more toast, to the best looking, also the best, Vice President.

(Insert of Vice President Gore): That is a quasi suspect remark!

Two wonderful friends from Sweden are with me this evening. They've come the furthest, Gerald and Monica Nagler. Gerald and Monica have known me since I was very young. I told them, some minutes ago, the story of a not very well-known Virginia Woolf novel, "Orlando," recently released as a film by Sally Potter. There's a scene in "Orlando" in which , after three centuries, a man turns into a woman overnight. She looks at herself in the mirror and realizes that she is the same person, except she's a woman. And I want to say to my very good friends and neighbors, if I ever stop trying to be the person Sandy described, please tell me. The world may treat me differently, but I will strive to be, all my days, the Ruth of whom Sandy spoke.

Thank you so much for coming.

## PASSAGE OF PENDING INCOME TAX TREATIES

Mr. PELL. Mr. President, today we have pending before us six income tax treaties with the Netherlands, Mexico,

Barbados, Russia, the Czech Republic, and the Slovak Republic. The Foreign Relations Committee held an extensive hearing on these treaties and reported them out unanimously this week. The administration has stressed the importance of these treaties and has urged their passage prior to recess.

While I hope all of these treaties can be ratified today, the administration has stressed the importance of action on the treaty with the Netherlands. The treaty with the Netherlands significantly improves an existing treaty which has been the subject of some abuse by third parties. Because the administration placed such importance on improving the Dutch treaty, it negotiated the protocol to the treaty recently with the hopes of having it considered by the Senate prior to recess becoming effective by January of next year. Under the terms of the treaty, if the treaty is not ratified before the end of the year, its effective date will be delayed until 1995.

The administration has also highlighted the importance of ratifying the treaty with Mexico. This is the first income tax treaty with Mexico. If the North American Free-Trade Agreement is passed, ratification of the treaty with Mexico will certainly take on greater importance.

Mr. President, I urge the ratification of the pending treaties.

## PRIVATE SECURITIES LITIGATION

Mr. DODD. Mr. President, I rise to address a very difficult but important question—the effectiveness of the private securities litigation system. Beginning last summer, the Subcommittee on Securities, which I chair, has been examining the effectiveness of private securities litigation in protecting investors and deterring fraud.

The subcommittee held two lengthy hearings at which we heard conflicting testimony from plaintiffs' lawyers, accountants, and high technology companies about just how effective the securities litigation system is. It is clear, however, that strong enforcement of the Federal securities laws by both the Securities and Exchange Commission [SEC] and investors is essential if we are to deter securities law violations.

After hearing testimony from more than two dozen witnesses and reviewing thousands of pages of submissions, it is apparent that the securities litigation system is not working as it should, and needs improvement. I was particularly swayed by testimony from various investor groups—who represent the very parties we want to protect—that the system is not operating the way it should.

Therefore, after the Senate reconvenes in 1994, I intend to introduce legislation to reform the current securities litigation system, particularly with respect to rule 10b–5 class action litigation. I intend to work closely with Senator DOMENICI on this effort.

While I have not yet developed a bill, my goal will be to make the system more effective in protecting investor interests, while trying to reduce the cost of some securities litigation so it is not an impediment to capital formation.

There are three areas where we might make such improvements. First, we need to strive to screen out frivolous securities cases and coercive settlements. While I am not persuaded by the arguments for anything like the "English Rule," in which the loser pays the winner's lawyer's fees, we should consider other ways in which we can better deter unfounded cases from being pursued.

Second, we should find ways to give investors better control over securities class-action cases, and over the lawyers who claim to represent them. People with a financial stake in a company ought to call the shots more effectively in cases that are supposed to be brought on their behalf.

Finally, we should strengthen the role of accountants as public watchdogs. The threat of an enormous judgment under joint and several liability is an inefficient way of encouraging auditors to fulfill their duty to the public. A stronger and more direct disciplinary system for the accounting profession would be preferable. One approach could be to create a self-regulatory organization for accountants similar to those that have been created for brokers and dealers. Like those organizations, such an entity should be directly overseen by the SEC.

In addition to new safeguards to strengthen the responsibilities of accountants to the public, we should consider modifying joint and several liability, so that the liability of defendants will be more closely linked to their relative degree of fault. However, a strict proportionate liability scheme is inappropriate because we must never leave innocent investors without adequate redress.

There are a number of ways to craft a modified proportionate liability scheme to meet these goals. I hope to come up with a comprehensive solution that better protects investors without promoting what often appears to be a wasteful and ineffective litigation system in which some plaintiffs' attorneys pursue frivolous cases and accountants or outside directors, in effect, become guarantors when they associate with a company.

## THE NEED FOR REFORM OF SECTION 10b–5 OF THE SECURITIES LAWS

Mr. DOMENICI. Mr. President, America is suffering from hyperlexia, a serious disease caused by an excessive reliance on law and lawyers. It is pervasive throughout our society but has reached serious dimensions in the area of court-created private actions brought under section 10b–5 of the Securities and Exchange Act of 1934.

Because over the years 10b–5 private rights of action have developed in the courts, independent of any congressional statutory guidance, the Senate Securities subcommittee held 2 days of hearings to evaluate how the system is working. Chairman DODD, myself, and other members of the Securities Subcommittees sat through some of the longest hearings I every recall. I have to say, when Chairman DODD conducts a hearing we all learn a great deal. Congress works as it should, in the Securities Subcommittee. We have collected a great deal of data and have heard from a lot of experts and affected parties.

My conclusion is that the system is broken and reform is greatly needed.

We found that the threat of hung jury awards is being misused to target emerging, rapidly growing companies, especially in the high-technology and biomedical technology areas where stock prices are volatile. There is nothing fraudulent per se about stock volatility. In fact, for new, high-technology companies volatility is to be expected. Nonetheless, lawsuits are filed based upon little more than the drop in stock price.

The hearings provided 10 reasons why reform is needed in the 10b–5 area:

First, cases settle regardless of the merits.

Second, company officials refuse to talk to analysts about their projections for fear of being sued if the estimates don't materialize.

Third, experienced and respected members of the corporate community refuse to serve on the boards of high-technology companies because of potential liability from unwarranted securities litigation.

Fourth, small investors berate the class-action plaintiffs' lawyers because the lawyers, not the shareholders run these cases.

Fifth, small investors are only getting pennies on the dollar for their losses but their lawyers get millions of dollars in legal fees.

Sixth, institutional investors believe these lawsuits are merely transferring money from one set of shareholders to another with the plaintiffs' class-action lawyer taking a share that looks a lot like greenmail.

Seventh, accounting firms are withdrawing from the auditing business and are shunning emerging, high-technology companies as clients because high technology is a high-risk target for 10b–5 securities litigation.

Eighth, CEO's are wastefully distracted from running their companies.

Ninth, the system isn't deterring fraud because insurance companies pay the settlements.

Tenth, the threat of a huge jury verdict becomes an unintended regulatory mechanism. If Congress wants to regulate, we should regulate. The courts are a very inefficient form of regulation.

My objective is reform which will restore rational, merit-based criteria to securities litigation and stop what the Wall Street Journal labeled the "Class-action shakedown racket."

No one disputes the essential role private rights of action play in maintaining investor confidence and insuring the integrity of our capital markets. Private rights of action, to quote William McLucas of the SEC, "enable defrauded investors to seek compensatory damages and thereby recover the full amount of their losses."

That is what the system, according to the SEC, is supposed to do. This is the primary yardstick by which we should measure how well the system is working.

Yet when we heard from an actual victim, she argued rather passionately that the system had failed her. She didn't feel that the system had afforded her a full recovery of her losses. She testified that victims get as little as 4 cents to 17 cents for every $1 of their losses while the class-action lawyers received the lion's share of any settlement. The defrauding defendants did not pay a dime. Her layman's conclusion was backed up by most academic studies that have been done on this subject.

When we heard the data from professional economists, "the merits don't matter" conclusion paralleled victims' antedotes and the academic studies of Janet Cooper Alexander of Stanford, Frederick Dunbar, and Vinita Juneja of the National Economic Research Association, and Philip Drake and Michael Vetsuypens of Southern Methodist University. Strong cases are settling for no more than weak cases and the system encourages the filing of weak cases.

Vince O'Brien, who specializes in providing economic and financial analysis for attorneys involved in complex litigation testified that companies known to be risky investments were much more likely to be sued under section 10b-5. There is no reason to believe that fraud is significantly more prevalent at such companies, consequently, this suggests that these suits are being used as an insurance for normal investment risk rather than to recover for injury due to fraud. A well working 10b-5 system should recognize that risk is risk and not fraud.

His studies concluded that high-technology industries—consisting of electronics, computers, and medical devices accounted for one out of every four suits filed.

We heard from three innocent high-tech company CEO's who had been sued under 10b-5. They were representing their own companies and many other midsize growth, and high-technology companies that provides 585,000 high-paying jobs. These are the leading edge American firms with total revenues of approximately $65 billion. These spokesmen felt the system had totally failed them.

Some had been sued when the stock price fell when they missed an earnings projection. Some had been sued when the stock went up. Another company was sued for settling one of these strike suits.

These are the firms that are creating new jobs year after year. These job producers' legal bills and settlements come at the expense of jobs and economic growth that could have been, but won't be created.

I walked away thinking that American entrepreneurs are dammed if they litigate to the end, and damned if they settle. The prohibitive cost of the former and the derivative litigation peril of the later place these companies in a no-win situation.

Individual investors get little monetary benefit from class action suits. But the system doesn't treat all investors the same. If you are lucky enough to be a "class representative," sometimes called a pet plaintiff, the plaintiffs' lawyers will negotiate a $10,000 to $15,000 bonus for letting them use your name. If you only purchased a couple shares of stock, the return on the investment is much better than for the class as a whole. This practice undermines the fairness of the system.

Reviewing the studies led me to the conclusion that the plaintiffs' lawyers have a conflict of interest with their class clients when they decide to settle one of these cases.

I find it troubling when the Chief of Enforcement for the SEC testifies that "these [plaintiffs'] class action counsels often operate in an entrepreneurial capacity rather than as a fiduciary operating at the direction of the client." Testimony from the North American Securities Administrators Association identified an "inherent conflict of interest in the attorney-client relationship in class-action securities suits which goes somewhat unchecked by ethical concerns."

These statements support my conclusion that the private enforcement system is broken.

Former SEC Chairman Richard Breeden came to the same conclusion a year ago, "a litigation system that fails to separate strong claims from meritless claims serves no one. It does not serve investors who have clear, solid claims and yet receive only a modest settlement, even more modest after payment of substantial attorneys' fees. It does not serve companies who have valid, strong defenses, and yet pay millions to settle claims to avoid the costs and risks of litigation. Excessive class-action settlements may deter companies from raising capital through the public markets and operating as public companies. In addition, litigation in all too many cases may be seen as the route for trying to recover what may have been market losses."

I think something is wrong when one of the most prominent plaintiffs' lawyers in their area has only taken five class-action, 10b-5 cases, in his entire career to trial—out of hundreds that he has filed. These cases have a suspiciously high settlement rate. The system's incentives encourage the filing of weak cases just to fore settlements.

I think there is something wrong with a system when the attorneys' fees for the defense are more than the settlement. Settlements for less than the defendant' litigation costs is an indication that the case was week or without merit. The plaintiffs' lawyers are choosing to avoid a test on the merits in court.

The plaintiffs' lawyers are forceful advocates of the current system. They argue that rule 11 of the Federal Rules of Civil Procedure is an adequate safeguard against frivolous litigation. But rule 11 is in transition and is being weakened. Under the proposed reform, sanctions would be discretionary instead of mandatory and parties would have a safe harbor of 21 days following notice of an alleged violation to withdraw the offending filing before a request for sanctions could be filed.

The SEC told us that investor confidence is extremely important and that disclosure is the cornerstone of our securities system. But the CEO's testified that the threat of litigation is eroding that cornerstone. The threat of litigation is chilling disclosure. CEO's and other company officials won't talk to analysts.

And what is the system doing to deter fraud? We really didn't hear any testimony supporting the alleged deterrent impact all this litigation is having. Most settlements are paid by insurance companies. As a consequence bad actors are insulated from the financial peril of their wrongful acts.

Outside directors are being adversely affected. A recent Harris poll of the Fortune 1000 (March 1993) revealed that inadequate directors and officers insurance was listed by 90 percent of the directors polled as the major factor discouraging business people from serving on corporate boards.

Only 46 percent were very confident that the courts would exonerate them of liability if they had acted prudently and responsibly in discharging their duties.

The American Business Conference recently did a poll similar to the Harris poll. The results are similar:

Seventy-five percent said that 10b-5 litigation is affecting their ability to compete.

Eighty-one percent said that they are spending increasing amounts of time

on litigation and that the commitment has doubled in the last 5 years.

Twenty-six percent said that the threat of litigation has led to a policy of not serving on the boards of startup firms.

Forty-nine percent of the settlements went to the plaintiffs' attorneys.

Congress should change the economics of filing these cases so that innocent defendants won't be pressured into settling. We need to modify the risk/benefit equation of taking a case to the jury. I am not considering doing away with joint and several liability for individuals who knowingly commit fraud, but I do have in mind a two-tier liability system which would retain joint-and-several liability in certain instances but also include a proportionate liability rule for those only incidentally involved.

We need to lessen deep-pocket incentives for plaintiffs' lawyers to bring frivolous lawsuits against innocent officers and directors perhaps by providing a maximum liability safe harbor so that they will serve on boards.

Perhaps it is time for the securities laws to move from the 1930's to the 1990's and join the emerging trend of utilizing alternative dispute resolution. Over the recess I am going to further explore the pros and cons of creating a system under which the plaintiff is given a choice: Alternative dispute resolution using specialized securities special masters or going to Federal court with a lower pays rule for the class-action attorneys who file frivolous cases. Under the new system, a plaintiff-class action would not be required to use the alternative dispute resolution system. Nor would the attorney be bound by its determination. However, any plaintiffs' class-action counsel who chose not to use ADR or who rejected its result would be obliged to go forward in Federal court under a "loser pays" set of rules. The American Business Conference recently suggested that we examine this approach.

We need reforms to foster more disclosure of valuable information to the marketplace, perhaps a statutory 10b–5 safeharbor for earnings projections and other predictive statements made with a reasonable belief that they are true.

We should consider reforms which closer align the interests of the plaintiffs' class-action lawyer with the interests of his clients. We need some form of attorney discipline to eliminate the race to the courthouse that takes place as attorneys compete for the lucrative lead counsel assignment. Perhaps a "class-action attorney pays" rule when his case is not substantially justified would make class-action counsel more accountable.

We need reforms to make it easier for the class to understand how the lawyers are being compensated and to challenge attorneys' fees.

We need reforms so that the plaintiffs' class recovers more of their losses when there is real fraud, and nothing when the case lacks merit.

We need reforms that make the system more transparent—easier to understand. Complaints should have more detail so that judges can dismiss those with no merit expeditiously.

The settlement terms should be easier to understand. Perhaps we should have plaintiff steering committees to make sure class counsel is acting in the best interests of the class of clients.

We should prohibit brokers and dealers from receiving steering fees for referring customers to attorneys, prohibit attorneys from representing the class if he/she has a beneficial interest in the underlying securities, prohibit bonus payments to professional plaintiffs, and prohibit disgorgement funds recovered by the SEC to be paid to plaintiffs' lawyers.

We should heed the caution of the Supreme Court, "litigation under rule 10b–5 presents a danger of vexatiousness different in degree and kind from that which accompanies litigation in general." We need reforms to protect our capital markets from that abuse.

It is the end of the session. Where do we go from here? I am looking forward to working with Chairman DODD to craft a bill that appropriately addresses this problem early next session. His unsurpassed knowledge of our securities laws will guarantee us success in making well-reasoned and greatly needed reforms.

## WELFARE REFORM

Mr. BROWN. Mr. President, there is a secret to success in America. It is work. Work means opportunity and growth. It gives fulfillment. To reform welfare, we have got to provide people an opportunity for self-respect and work.

In 1988, when I was in the House, we made a step toward changing our welfare system to encourage work in the Family Support Act. Because the Senate had passed a work requirement in its 1988 welfare reform package, we were successful in getting one through the House and signed into law in the Family Support Act. While President Clinton now takes credit for the Family Support Act, I must tell you it was the Republicans in the House and Senate who crafted and passed the work requirement.

Today, Senator DOLE and I, along with several of our colleagues, announce that we are ready to work for true welfare reform: requiring work for able bodied adults on welfare, requiring parents to support their children, increasing flexibility for States to design welfare programs, and limiting welfare to those it was designed to help.

Briefly, what we outline today includes: requiring job search by adults applying for Aid for Families with Dependent Children [AFDC]; establishing a voucher program for welfare recipients to use to find a job which will pay them twice the amount of their combined AFDC and food stamp benefits; requiring single parents to work or prepare for work through education, job training, skill development or on-the-job training; and allowing States to drop able bodied adults for AFDC cash benefit rolls after 5 years.

Another important part of welfare reform is strengthening paternity establishment and child support enforcement. The Brown/Dole proposal does this in several ways: changing the law so a mother does not get her portion of cash AFDC benefits until she has fully cooperated in getting her children's paternity legally established; encouraging States to establish uniform forms and systems for wage-withholding of child support and to honor other States' child support orders; requiring noncustodial parents whose children are on welfare to pay court-ordered child support or to participate in welfare work programs; and

In talking about welfare reform, one of the things we've heard repeatedly is the need for States to have the ability to design welfare programs that meet their needs and not the Federal bureaucracy. To do this, our proposal would allow States to impose certain welfare requirements without getting a waiver from the Federal Government. States could implement new requirements or programs: to improve school attendance; so that no benefits would be paid for additional children born while the parent is on welfare; to limit new State residents to the same level of AFDC benefits as the previous State for 1 year; and to eliminate the welfare penalty if a mother marries a man not the father of her children.

We also propose a new procedure to standardize and streamline the process for States to get exemptions from Federal welfare requirements.

Finally, we limit who can get welfare and what is required of some welfare recipients. Under the Brown/Dole proposal: Most noncitizens would not be eligible for welfare, except emergency medical services. Refugees would be eligible for welfare benefits only for 1 year beyond the time required to become a U.S. citizen. Welfare recipients addicted to drugs or alcohol would be required to participate in rehabilitation programs and required to undergo random drug tests to remain eligible. Persons found innocent by reason of insanity and in an institution would not be eligible for disability benefits based on their mental condition.

This proposal takes what was done in the 1988 Family Support Act and builds on it. We've talked with the House Republicans, who introduced their own welfare reform bill last week, and have incorporated many of their ideas. There are other ideas out there we

want to consider and ask our colleagues to bring them to us. Over the recess we will take this outline and turn it into a bill to be introduced when we come back.

Republicans want to work on welfare reform. Senators PACKWOOD, HUTCHINSON, HELMS, GRAMM, MCCAIN, CRAIG, LOTT, BURNS, WALLOP, WARNER, D'AMATO, SIMPSON, NICKLES, COVERDELL, DURENBERGER, SMITH, COHEN, KASSEBAUM, and COCHRAN have signed on to help us in this effort. We ask other Senators to look at this proposal, bring us their ideas and suggestions, and help us reform welfare to encourage work, responsibility, opportunity and self-esteem.

I ask unanimous consent that the outline of the Senate Republican Welfare Reform bill be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTLINE OF SENATE REPUBLICAN WELFARE REFORM BILL

TITLE I: AFDC TRANSITION-TO-WORK AND WORK PROGRAM

*A. AFDC Transition-to-Work Program (first 2 years on AFDC)*

1. Initial AFDC Applicant Job Search.

States must require AFDC applicants to participate in job search while their welfare application is being processed. Applicants must be reimbursed for transportation and child care expenses. States can provide emergency aid when payment cannot be delayed. States retain considerable flexibility in defining such emergencies, although they must include in their state plan the general guidelines they will follow. States can decide not to follow this provision by passing a state law specifically exempting themselves. At the time of AFDC enrollment, families are referred to the AFDC Transition-to-Work Program in which they are expected to work or prepare for work:

(a) at state option, participation in the AFDC Transition Program should begin after 1 year for some or all participant families defined as job ready by states; participation may begin any time prior to one year, as determined by the state;

(b) recipients and the welfare agency create a written plan describing what each must do so the parent can prepare for work; the written plan must include the statement that after 2 years (or less at state option) parents who have not secured paid employment must work in exchange for their AFDC benefit;

(c) at the end of the first year in the transition program, an assessment is made by the state to determine whether the recipient has made "clear and substantial progress" toward preparing for work (this requirement is waived if the state has elected to hold the recipient out of the transition program for 1 year); and,

(d) states, in consultation with the Secretary, establish the guidelines by which "clear and substantial effort" is defined; states can set their own guidelines within the following framework:

(1) the general rule, to which education is an exception (see below), is that families must participate at least 520 hours per year or 20 hours a week, although states have flexibility in how the 520 hours is achieved (e.g., 100% time for 3 months, 50% time for 6 months, or 25% time for 12 months fulfills the requirement);

(2) within 12 months of enactment, the Secretary must publish rules about how education hours are counted; the guiding principle should be whatever a given educational institution (including certified professional training schools and certified degree-granting programs) considers full-time enrollment, and maintaining at least minimum passing evaluations, counts as participation, with some restrictions to prevent welfare "diploma mills";

(3) in two-parent families, at least one parent must meet participation requirements; states have the option of requiring participation by both parents;

(4) parents can use the 6-month birth exemption only one time; if a subsequent child is born while the parents are on AFDC, only the 4-month exemption is in effect;

(5) all the programs authorized in section 482(d) of the Social Security Act (education, job skills, job readiness, job development and placement, group and individual job search, on-the-job training, work supplementation, community work experience) count as participation under the AFDC Transition program.

2. Sanctions.

Participants who fail to meet the criteria for participation are sanctioned as follows:

(a) for the first offense, the adults lose their AFDC benefit for 3 months; if the 3 months elapse and the recipient has not complied with the criteria, then the recipient is deemed to have started the second offense period;

(b) the sanction for the second offense is similar to the first except that in addition to complying with the criteria, at least 6 months must elapse before benefits are restored; if the recipient still does not comply, then the recipient is deemed to have entered the third offense period;

(c.) for the third offense, the parent is dropped from AFDC for at least one year and payments on behalf of the child(ren) may be made in the form of vendor payments to pay for housing costs or to a representative payee; and,

(d.) when families are dropped from AFDC, they retain Medicaid, Food Stamps, housing, and any other benefit for which they are otherwise eligible.

3. Exemptions.

(a.) incapacitated, as currently defined in regulations (not including drug and alcohol offenders);

(b.) at state option, those enrolled in drug and alcohol abuse programs (with a 12-month limitation);

(c.) during a 6-month period after which a recipient gives birth to the first child born after the recipient participates in AFDC;

(d.) during a 4-month period after which a recipient gives birth to the second or subsequent child born after the recipient participates in AFDC;

(e.) during a 2-month period following the return home of a child who had been removed from the home;

(f.) providing full-time care of a disabled dependent.

*B. AFDC Work Program*

If parents have not found a job after two years, they will be given a voucher equivalent to the combined value of their AFDC and Food Stamp benefit. This voucher may be given to an employer to serve as a wage replacement. In order to hire an AFDC recipient with a voucher, the employer must certify to the welfare agency that the individual is being hired at a wage at least twice the value of the voucher. The employer is eligible to receive the wage replacement payment for one year. After one year, the reimbursement level of the wage replacement is reduced by one half. At the end of the second year, the wage replacement is eliminated entirely. During the time of employment covered by the wage replacement, employers may also participate in the Targeted Job Tax Credit (TJTC).

At the end of two years receipt of AFDC, the recipients will be given three months to seek employment with the voucher. If, at the end of three months, they are unable to secure employment with the voucher, they must participate in a work program established by the state. However, if at any time, subsequent to beginning participation in a work program, they secure employment, they may use the wage replacement voucher according to the conditions specified above.

1. Program Outline.

(a.) most states now conduct a Community Work Experience Program (CWEP) in which parents work, usually in a public sector job, for the number of hours equal to their AFDC benefit divided by the minimum wage; the current CWEP hours requirement is rewritten to mandate that recipients work for 35 hours per week;

(b.) states can also require participation in the Work Supplementation program in which the AFDC benefit is used to subsidize a private sector job;

(c.) reforms to the Work Supplementation program include:

(1.) elimination of the requirement that all jobs must be new jobs;

(2.) creation of new financial incentives for states to use the program: recipients participating in the Work Supplementation program must be paid a salary at least equal to their AFDC plus food stamp benefits; states can negotiate arrangements with employers to pay enough of the salary that some part of the value of the AFDC benefit will not be required to reach the AFDC plus Food Stamp minimum; in these cases, and in cases where the wage replacement voucher is used, states can continue to request the federal share of the AFDC benefit as if the entire benefit were still being paid by state funds (this provision has the effect of allowing states to keep the entire amount by which the employer-provided salary "buys out" the AFDC benefit);

(d.) states can create a new work program, subject to approval by the Secretary, that combines features of CWEP and Work Supplementation or uses entirely new approaches developed by the state;

(e.) after 3 years of participation in the work program (and a total of 5 years on AFDC), states have the option of dropping recipients from the AFDC rolls; they would continue to be eligible for Medicaid; food stamps, and other benefits.

2. Sanctions.

Same as above.

3. Exemptions.

Same as above.

*C. Work Program for Two-Parent Families.*

At least one parent in two-parent families on AFDC must be required to work 32 hours per week and engage in job search for 8 hours per week. States are required to pay the combined AFDC-Food Stamp benefit in cash only after the completion of the work requirement for any given period. If the work requirement has been only partially met,

states must proportionately adjust the AFDC-Food Stamp payment level. All states can exercise the 6-month option in designing their AFDC two-parent program (current law prohibits about half the states from using the 6-month option).

*D. Work Program for Fathers or non-custodial parents.*

Non-custodial parents of children on AFDC must either pay child support or participate in a work program.

(1.) Non-custodial parents who are the equivalent of 2 months in arrears on their child support, unless they have a court-approved plan for repayment, must participate in this program.

(2.) States can design their own programs, but their program must include at least the following three elements:

(a.) initial contact with the non-custodial parent must include a letter that informs them they must pay child support, that they should contact the child support office, and that they are subject to fines and penalties if they do not cooperate;

(b.) if the non-custodial parent does not pay child support within 30 days, then they must enroll in a job search program for 2 to 4 weeks;

(c.) if the non-custodial parent still does not pay child support within 30 days, they must enroll in a work program for at least 35 hours per week (30 hours if the program also requires job search).

(3.) The work program state participation requirements outlined above apply to the work program for non-custodial parents; the denominator for calculations is the number of non-custodial parents with children on AFDC who do not pay child support.

(4.) Only incapacitated non-custodial parents are exempt.

TITLE II: PATERNITY ESTABLISHMENT

(A.) If the paternity of any dependent named on an AFDC application has not been legally established, the mother must provide the name of the father or possible fathers to AFDC officials as part of the application process:

(1.) The existing eligibility requirement requiring the custodial parent to cooperate with and assign support rights to the state agency shall remain in effect.

(2.) If the mother is not certain who the father is, she must name all the men she thinks could be the father.

(3.) In the case of families with one child, once the mother has provided the father's name, the family is eligible for an AFDC cash benefit for the child.

(4.) In the case of families that have at least one child for whom paternity has been established and at least one child for whom paternity has not been established, the family will receive an AFDC benefit for the children.

(B.) After giving the father's name, the mother must cooperate with the state child support enforcement agency to establish paternity:

(1.) Once paternity is legally established, the family is eligible for the full AFDC benefit for a family of that size.

(2.) If the child support agency finds that the man named by the mother is not the father, the mother is dropped from the rolls until paternity is established, and payments for the child(ren) may be made as vendor payments to provide for housing or to a representative payee.

(3.) In the case of a family with more than one child at least one of which has paternity established, a false name will still result in the custodial parent being dropped from the rolls, and payments for the child(ren) being made as vendor payments for housing or to a representative payee.

(C.) Upon application for Medicaid prior to eligibility for AFDC, as well as upon participation in any state or federal program, state and federal officers and employees upon first recognizing that she is pregnant, shall inform her that:

(1.) she will not be able to receive AFDC benefits until she identifies the father, and

(2.) she should do whatever is necessary to get the father to acknowledge paternity as soon as possible.

(D.) States must develop procedures in public hospitals, Federally Qualified Health Centers, and clinics that facilitate the acknowledgment of paternity.

(E.) States must develop procedures, in consultation with the Secretary, to handle cases in which mothers claim the father is dead or missing. State procedures should be based on the principle that the burden of proof is on the mother.

(F.) The mother is exempt from these requirements if her pregnancy was caused by rape or incest or if the state concludes that pursuing paternity will result in physical harm to the parent or child.

(G.) The States, in consultation with the Secretary, shall develop procedures for determining undue hardship when, despite full cooperation by the custodial parent, the State is unable to establish paternity.

(H.) States are required to follow the provisions outlined above unless the state passes a law specifically declaring that the state wants to exempt itself.

(I.) The state paternity establishment requirement of 75 percent in current law (as passed in OBRA '93) is increased to 90 percent. As under current law, states under 90 percent must increase by 3 percent each year if their percentage is over 50 percent and 6 percent each year if their percentage is under 50 percent.

TITLE III. EXPANDED STATUTORY FLEXIBILITY FOR STATES

The following provisions are subject to either an opt-in or opt-out requirement. For those provisions which are opt-in, a state may choose to adopt the provision in its AFDC program. For those provisions which are opt-out, a state must include the provisions in its AFDC program unless the state passes a law specifically requiring that such provision not be included in its AFDC program.

*A. Rewards and sanctions for immunization and/or health checkups.*

Allow states to increase the total monthly AFDC benefit by up to $50 per month for 6 months (not necessarily consecutive) for complying with immunization, EPSDT screening, or other health requirements. Families could be sanctioned by up to $50 per child per month until the requirements are met. States can decide not to follow this provision by passing a state law specifically exempting themselves.

*B. Rewards and sanctions for school attendance.*

Allow states to increase the total monthly AFDC benefits by up to $75.00 if they meet or exceed attendance standards as established by the state. Families with school-age children who attend school less than the state-established minimum without good cause will be subject to a sanction of up to $75.00 per child per month. Good cause is defined by states in consultation with the Secretary.

*C. No additional money for more children.*

States have the option of not paying any additional benefits for children born 10 months after the date of application for AFDC. States can, but are not required to, allow exceptions for families:

(1) that leave AFDC due to earnings for at least 90 days if employment is terminated for good cause, and/or

(2) that remain off AFDC for 12 consecutive months.

*D. Married couple transition benefit option.*

States would be permitted to allow AFDC recipients who marry someone who is not the father of their child, and who would become ineligible for AFDC, to keep up to ½ of their current benefit for up to one year as long as their combined family income is below 150% of the poverty level. Couples who marry and would be eligible for AFDC-UP in the state may be treated by the state as eligible for either AFDC-UP or the state's new "married couple" transition benefit, but not both.

*F. AFDC benefit levels for new state residents.*

States have the option of providing new residents of their state with the same level of AFDC benefits as provided by the state from which the residents moved. This level of benefits can be provided for no more than 1 year.

*G. Parenting classes, money management.*

States have the option of requiring AFDC parents to participate in parenting classes and classes on money management during the Transition Program. Such participation counts toward fulfillment of state participation requirements.

*H. Increase asset limit with respect to earned income of minors.*

States have the option of increasing the asset limit for minors who have earned income and accrued savings to be used for education expenses.

TITLE IV. EXPEDITED STATE WAIVER AUTHORITY

*A. Office of Waiver Coordination.*

All waivers submitted under title I, X, XIV, XIX or part A or D of title IV will be submitted to and considered by the Office of Waiver Coordination in the Department of Health & Human Services. This Office shall provide States assistance and technical advice in applying for waivers under the various titles and shall provide States assistance in obtaining technical information necessary to conduct or renew demonstration projects. To the extent that any waiver is affected by or related to the Food Stamp Act of 1977, the Director of the Office, appointed by the Secretary, shall consult and coordinate with the Secretary of Agriculture on such waiver. The Director shall also develop and implement a standardized 5-year waiver form process to apply with respect to all waivers as well as provide for development and implementation of a uniform reporting form to be filled out and filed with the Secretary every 3 years by States participating under a waiver. Within 45 days, the affected programs must provide the Director with views on whether the proposal will move families toward independence from welfare. Within 120 days, the Director must reach a decision and notify the State. If the waiver request has not been acted upon within 120 days, the request is deemed to be approved.

TITLE V: CHILD SUPPORT ENFORCEMENT

*A. Improved Tracking of Absent Parents to Enforce Support*

(1.) The Federal parent Locator service would be expanded to improve access to information nationwide and the Federal Office of Child Support Enforcement would coordinate an information network between states to provide for speedy interstate searches.

(2.) States shall be required to recognize and enforce child support orders established in other states, thus placing jurisdiction for child support disputes in the state where the child resides.

*B. Streamlined Wage Withholding*

Streamline the interstate system of wage withholding by establishing uniform notices and requiring employers to honor withholding notices from out-of-state courts.

TITLE VI: WELFARE RESTRICTIONS

*A. Aliens*

(1.) All welfare benefits (other than emergency Medicaid) are eliminated for non-citizens, except for refugees and certain permanent residents as defined below.

Exceptions for refugees and permanent resident aliens:

(a.) refugees who have been adjusted to permanent resident status can receive welfare for only 1 year beyond the time limit required for them to apply for citizenship (unless they are over age 70);

(b.) permanent resident aliens over age 70 who have been legal residents for at least 5 years are eligible for welfare benefits.

(2). State AFDC agencies must provide the name, address, and other identifying information to the Immigration and Naturalization Service for all illegal immigrant parents with citizen children.

(3). Any noncitizen who is currently residing in the U.S. and is affected by any of the above provisions is exempt from that provision for 1 year following passage of the bill; any federal department that administers welfare programs that currently serve resident aliens must directly notify, or ensure that states notify, all resident aliens affected by provisions outlined above.

*B. Supplemental Security Income.*

Provide that persons who have pled guilty by reason of insanity may not collect SSI benefits based on disability from their mental condition.

TITLE VII: MISCELLANEOUS PROVISIONS

*A. AFDC Recipients and Drug Addiction*

(1.) AFDC applicants and recipients determined by states to be addicted to alcohol or drugs must participate in addiction treatment.

(2.) Failure of addicts to participate on a satisfactory basis as defined by the state will result in expulsion from AFDC for 2 years. States may establish priorities for treatment based on availability of services. States may not remove addicts from the AFDC rolls for failure to participate in a treatment program when the treatment service is unavailable to the addict-recipient.

(3.) States may waive participation requirements during the transition program for up to 1 year if AFDC recipients are participating in addiction treatment programs; however, states must continue to include all addicted recipients in the denominator for calculation of participation standards.

(4.) States are authorized to use random and unannounced drug tests with recipients who have participated in drug rehabilitation programs or have a history of addiction; refusal by the recipient to submit to drug testing will result in termination of the adult's cash AFDC benefit. Payments on behalf of the child may be made in the form of vendor payments or to a representative payee.

*B. Eligibility for Food Stamps*

(1) In order to qualify for Food Stamps, adults must be:

(a) receiving unemployment insurance, AFDC, SSI, disability insurance, workers compensation, or social security,

(b) pregnant women in the last month of pregnancy or within two months of giving birth,

(c) participating satisfactorily in the Food Stamp work program, or

(d) able to show proof of incapacitation or current employment

(2) Clarifying rule: If an adult in a Food Stamp household that includes children fails to meet the requirements and is disqualified from participation, the children will still qualify for benefits (but their household size will be reduced by 1 person).

*C. Evaluation of Education and Training Programs*

The Department of Health and Human Services is required to fund research that examines the impacts of education and training programs on exits from AFDC, welfare expenditures, wage rates, employment histories, and repeat spells on AFDC. At least one of the studies must involve three groups to which AFDC adults are randomly assigned: a control group not required to participate in any special activity, a group required to participate in education or job training programs, and a group required to participate in job search or job search and work experience. Participants must be followed for at least 5 years.

*D. Demonstrations on Fraud and Administrative Efficiency*

(1) HHS is authorized to conduct demonstrations in several states to determine whether providing welfare benefits (including AFDC, Food Stamps, Medicaid, housing, etc.) by use of electronic cards and automatic teller machines will reduce administrative costs and fraud; within 5 years HHS must write a report to Congress summarizing the results of the studies and making recommendations about whether, and how, more states might be required to use electronic funds transfer programs. For any project not yet approved upon enactment, the following standards and restrictions shall apply:

(a) All Electronic Benefit Transfer (EBT) projects shall be treated as demonstrations with requisite evaluations until data is available establishing the cost-effectiveness for the federal government.

(b) Federal funding for hardware is prohibited.

(c) Regardless of conditions agreed to for cost neutrality purposes, when the demonstration is ended the federal match shall continue to be capped at 50%.

(d) Federal Approval of EBT demonstrations shall be conditioned on the following:

(1) Cost neutrality for the federal government;

(2) Reasonable time frames for development and implementation including consideration for conversion and potential disruption to benefit disbursement to recipients;

(3) Reasonable limits establishing numbers of transactions and service fees for recipients;

(4) Stipulation of anti-fraud procedures to prevent misuse of EBT cards;

(5) Stipulation of procedures to insure privacy;

(6) Description of an equitable cost accounting system for expansion of EBT availability to state and federal programs in addition to the original developing programs.

(2) HHS is required to appoint a commission composed of cabinet officials, outside experts, and state administrators to determine the cost and feasibility of creating an inter-state system of Social Security numbers of all welfare participants for the purpose of ensuring that no adults or children are participating in welfare programs in more than one state.

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## THE NEED FOR WELFARE REFORM

Mr. GORTON. Mr. President, I speak today to lend my support to the Republican welfare reform efforts. Senators BROWN, DOLE, and others have developed a welfare reform plan which will start up down the road toward serious reform. While it includes many worthwhile proposals, and I am pleased to endorse it, there are other issues which still must be addressed in order effectively to reform the welfare system.

The first step in solving any problem is to define it. I recently came across a political cartoon that demonstrates graphically, if a bit cynically, the parameters of the debate. The cartoon pictures two men, one standing at the top of a cliff next to a nice home and car. He has let down a rope for the other man who is at the bottom of the cliff in a rundown neighborhood that could be located in almost any inner city in America. The man at the top yells down "climb" while the man at the bottom yells back "lift"

Like most satire, this cartoon simplifies the problem, but captures its essence.

How are welfare recipients to climb up the rope if rope-climbing is something they've never seen or done before, and if it is obviously easier and safer not to do so? Those of us at the top of the cliff need to create positive reforms that make it feasible for welfare recipients to climb that rope and join us at the top. We can even help out by pulling while they climb—it doesn't have to be either/or.

How serious is the need for welfare reform?

In 1987, the Washington State Legislature directed the Washington State Institute for Public Policy to answer that question via a five-year study of those in Washington State who receive or who are at risk of receiving government assistance. Let me share some of their findings with you.

Of the children living in public assistance households: 82 percent had mothers who were not currently married; 55 percent lived in households with only one adult; 25 percent of children 6 to 12 years old and 36 percent of children 13 to 18 years old, had repeated a grade in school; and 21 percent of children 13 to 18 years old had been suspended or expelled from school.

These findings are supported by similar national poverty statistics reported by the Congressional Research Service: 20.7 percent of families in which the head of the household had less than a high school education were poor; and 31.7 percent of families in which the head of the household was unemployed were poor.

Only 5.7 percent of those families in which the head of the household was

employed were poor, compared to the overall family poverty rate of 10.3 percent.

Now, we can draw some fairly obvious conclusions from these figures: People who have jobs—particularly full-time jobs—tend not to be poor and thus are less likely to need Government assistance or welfare; and low educational levels and single parenting greatly increase the likelihood that a person will need public assistance. Not very profound insights, but ones to which our current welfare system seemingly works at cross-purposes.

Over the past three decades, we have fought poverty by artificially inflating the incomes of those needing assistance, and in doing so, have inadvertently, and with the best of intentions, created a system that promotes dependency without providing opportunities and incentives for leaving that system. And we have spent an enormous amount of money in the effort.

In 1992, Federal spending for the broad category of social welfare programs accounted for half of all Federal spending—a total of $777 billion. Of that $777 billion, $285 billion was budgeted specifically for public assistance programs. This is more than the $273 billion we spent on defense, more than the $199 billion interest on the national debt, more than the $208 billion for all other Federal programs combined.

Yet, for all of the money spent on social welfare programs, poverty has continued to rise. In Washington State there was a 19-percent increase in welfare caseloads between July 1990 and February 1992. Nationally, the numbers are just as dramatic. In the first 5 months of fiscal year 1992, Aid to Families with Dependent Children [AFDC] climbed to a record 4.685 million families, including 9.2 million children. This is 21 percent above the comparable 1990 level. These numbers suggest that our current efforts are doing little to transform dependence into independence, or that more money is not necessarily the answer.

The Republican Welfare Reform Plan puts an emphasis on work and education. It requires welfare recipients to work, look for work, or continue their education. If a participant refuses to do any of these requirements, he or she will be cut off from all Federal cash supplements.

The Washington State Institute for Public Policy report on welfare listed employment as a major factor to help women stay off of public assistance. It found:

> Women who had a job in the month before they left public assistance were able to stay off for a median length of 23 months compared to 15 months for women who did not have a job when they left. * * *
>
> Women on public assistance are less likely to be working or looking for work, and are more likely to be out of the labor force altogether, than women at risk of receiving public assistance.

Part of the problem with our current system is the lack of incentives for people either to leave welfare and go to work, or to form a two-parent family. Robert Rector of the Heritage Foundation testified before the House Select Committee on Hunger that for a woman to continue to receive her welfare check she must do two things: she must not work and she must not marry someone who is working. He went on to state that "nearly all (welfare programs) have strong antiwork effect(s) * * *."

Thus more than just demanding work, real welfare reform must include incentives to work. If, for example, a single mother saves more than $1,000, her AFDC benefits will be cut back. The example of Sandra Rosado highlights the problem with this limit. A New York Times article reported on Ms. Rosado:

> Working part time at a community center, Sandra Rosado saved $4,900 to go to college and escape the web of welfare that is all her family has known * * *. But her thrift and industry have lead to a bureaucratic nightmare for Miss Rosado and her family.

When Government officials found out about her savings, her family was forced to spend the money in order to stay on AFDC. Then Federal officials ordered her mother to pay a fine of $9,342. Why should Sandra Rosado have her dreams of going to college and escaping poverty dashed because she was thrifty and hard working?

Another problem with welfare is if a woman works more than 100 hours or marries someone who does, she loses her AFDC eligibility and therefore her medical and child care benefits—even if the household income still falls within the eligibility range of AFDC. In testimony before the House Select Committee on Hunger, Mark Greenberg, the senior staff attorney for the Center for Law and Social Policy, described the 100 hour work rule as a major disincentive for AFDC–UP (unemployed parents) families. He concludes his testimony by saying "Real welfare reform * * * would remove the barriers to work and the barriers to family formation."

While this plan does not include alterations to either the 100 hour work rule or the $1,000 asset limitation, I believe that we can reach an accommodation on these issues before the final debate occurs.

The GOP task force welfare reform plan also includes provisions to encourage the formation of stable families. It emphasizes parental responsibility for the support to their children. Mothers must identify the fathers of their children. Fathers must live up to their responsibilities and financially support their offspring.

Welfare reform must be approached with more creativity than just providing additional funding. We must find new and innovative ways to use our money that will address the problems of disincentives to work and to formation of stable families.

Another problem with the current welfare reform system is that it is convoluted. It is spread through 72 different programs in several different agencies. If we are truly going to reform welfare, simplification and consolidation must be a primary focus. Along with this, must be a focus on rigorous input-output analysis. No longer can we simply pour money into programs and expect them to work. There must be vigorous scientific evaluation of each program to ensure that the anticipated results are indeed occurring.

In conclusion, Mr. President, the welfare reform plan being announced today takes significant steps down the road of real reform. In the absence of any other proposal, it will provide the Senate with a foundation on which to build. However, this plan should not be seen as the final solution to welfare. I lend my support on the confidence more will be done.

## SENATE REPUBLICAN WELFARE REFORM PROPOSAL

Mr. COHEN. Mr. President, today I am joining several of my Republican colleagues in proposing the outlines of a comprehensive package of welfare reform proposals.

The debate on how to address the broken system of welfare assistance in this country is long overdue, and I support the concepts included in the outline published today in the CONGRESSIONAL RECORD as a means of establishing certain parameters to the debate.

Many States have been working on various approaches to welfare reform, and we need to support those efforts and make them more effective. That is the general concept I support, which I believe is incorporated in the package of welfare reform proposals proposed by the Senate Republican Welfare Reform Task Force.

In the coming months, I look forward to participating in further discussions with my fellow Senators and all those interested in achieving reform on the regulatory changes needed to reach our goal. While I support the concepts contained in this package, I will certainly be reviewing the legislative details when they become available to determine whether the final bill is something I can support. Today's action demonstrates my commitment to reform and my intent to participate fully in the debate that will occur, hopefully, next year.

I appreciate the efforts of the Republican leader, Senator DOLE, and Senators BROWN and PACKWOOD in developing this package of reform proposals.

## NOMINATION OF JUDGE THOMAS SHANAHAN

Mr. DOLE. Mr. President, earlier this week, the Senate Judiciary Committee

reported out by voice vote the nomination of Judge Thomas Shanahan to fill a vacancy on the Federal District Court in Nebraska.

As a member of the Nebraska Supreme Court, Judge Shanahan dissented in several key cases upholding the convictions of child sexual abusers and drug offenders. These dissents, as I understand them, have hinged on technical interpretations of evidentiary rules and State criminal laws. And as I said earlier this month, technicalities do matter, for if Judge Shanahan's views had prevailed in these cases, the convictions of vicious child sex abusers and violent drug offenders would have been overturned.

Now, Mr. President, I do not intend to block Judge Shanahan's confirmation. When Judge Shanahan is finally confirmed, I wish him the very best in his new career as a Federal judge.

But once he gets to the Federal bench, it is my hope that Judge Shanahan will act responsibly and not look for reasons to excuse criminal behavior. It is also my hope that he will interpret the criminal laws, not in accordance with his own political philosophy or vision of social justice, but rather according to the intent of the laws' drafters.

I will be following Judge Shanahan's record on the Federal bench with interest.

Mr. President, I ask unanimous consent that an article from the Omaha World-Herald be inserted in the RECORD immediately after my remarks.

There being no objection, the article was ordered to be printed in RECORD, as follows:

DOLE CALLS NOMINEES SOFT ON CRIME ISSUES

(By Kevin O'Haxlon)

In a Senate speech Wednesday night, Senate Minority Leader Bob Dole, R-Kan., criticized several Clinton administration nominees to the federal bench, including Nebraska Supreme Court Judge Thomas Shanahan, who has been nominated as a federal district judge for Nebraska.

Dole said the nominees were soft on crime issues.

Doe said, "Make no mistake about it: Technicalities do matter. For if Judge Shanahan's views had prevailed in these cases, the convictions of vicious child sex abusers and violent drug offenders would have been overturned."

Dole referred to questions posed to Shanahan Oct. 20 by Sen. Orrin Hatch during a hearing on his appointment.

Hatch, R-Utah, asked Shanahan to explain his written opinions on six cases involving the admissibility of evidence or sentencing practices. He said he disagreed with Shanahan's positions.

Summaries of those cases and excerpts of Shanahan's written opinions:

In 1991, Shanahan wrote a dissent when the high court upheld a Lancaster County District Court conviction of Robert D. Stephens for sexually assaulting a 1-month-old girl.

Stephens argued that the district court erred in allowing evidence to be admitted showing he had had recurring sexual contact with another child.

In his dissent, Shanahan wrote, "If the trend continues in this court's construction and application . . . conduct throughout a defendant's lifetime will be admissible and, if reincarnation is a fact, will be admissible from another life."

Shanahan was the lone dissenter in a 1990 decision that affirmed Michael Yager's conviction in Sarpy County District Court for fondling an 8-year-old boy.

Shanahan said the conviction was flawed because evidence about past sexual assaults or sexual activities was admitted during the trial.

Shanahan wrote that the majority's decision "has done nothing to rein a runaway rule that threatens to trample on a defendant's right to a fair trial."

In 1989, the court affirmed a Lancaster County District Court conviction of Norman Oliver for third-offense drunken driving. Oliver argued that his previous convictions failed to show that his guilty pleas had been entered voluntarily and intelligently; that prosecutors listed the wrong date on one of his prior convictions; and that the court should have given him credit on his sentence for time spent in alcohol treatment.

"The majority's opinion is somewhat of a judicial shell game which requires a defendant to locate a procedural pellet for challenging the constitutionality of the . . . prior conviction," Shanahan wrote. "Fundamental unfairness occurs, however, because there is no pellet to be uncovered."

In 1989, Shanahan wrote a unanimous opinion overturning the conviction of a Douglas County woman, Jean L. Abdouch, on a charge of illegally manufacturing marijuana.

Shanahan wrote that evidence found in searches conducted jointly by private citizens and law enforcement officers may be subject to the same legal restrictions that govern searches by officers acting alone.

Authorities obtained the evidence during a 1987 search of a rural acreage where Ms. Abdouch lived. When her roommate died, his family went to the farm with Douglas County sheriff's deputies to recover his personal property.

The deputies did not have a search warrant. A baby sitter permitted the family and deputies to enter the house.

The deputies, on their own initiative, searched a barn and found marijuana plants and seeds.

Shanahan said the actions by the family and the deputies were "too interdependently connected and inseparable" to distinguish their participation in the search of Ms. Abdouch's farm.

In 1986, the Supreme Court upheld the conviction of a Milford, Neb., man for growing marijuana, saying that the search of an open field without a warrant was constitutional.

Terry Havlat was convicted of manufacturing a controlled substance, marijuana, after Nebraska State Patrol officers in August 1983 entered his farm and seized 600 pounds of marijuana plants. The plants were seized without a court-ordered search warrant.

Havlat was sentenced to 20 months to 40 months in prison and fined $1,000. He appealed the conviction and sentence, arguing that the marijuana seized at the farm should not have been used as evidence if it was seized in violation of Nebraska and U.S. constitutional provisions guaranteeing the right to be free from unreasonable searches and seizures.

Shanahan said Havlat's constitutional rights were violated.

Shanahan said the officers "trespassed" on Havlat's land on six different occasions to gain evidence that he was growing marijuana.

In 1985, Shanahan dissented when the court affirmed the Douglas County District Court conviction of Curtis D. Morrow on two counts of delivering marijuana and cocaine. In the presence of a Nebraska State Patrol informant, Morrow and another man, Michael Harlow, agreed to travel to Florida and buy cocaine in exchange for $10,000 promised by the informant, who also asked them for drugs for his personal use.

Morrow and Harlow arranged to deliver cocaine and marijuana to the informant at a restaurant the next day. At the meeting, Harlow passed marijuana under the table to an undercover officer who had accompanied the informant to the restaurant. A few minutes later, Morrow gave the keys to his car to Harlow, who left and returned later and gave the undercover officer the drugs.

The Supreme Court rejected Morrow's argument that his presence at the discussions and delivery of the drugs was insufficient evidence for a conviction and that his 1- to 3-year sentence was excessive.

In his dissenting opinion, Shanahan wrote: "This court should have modified Morrow's sentence to probation, the sentence imposed on Morrow's equally excessive co-defendant."

## CRIME BILL—GUN CONTROL

Mr. PRESSLER. Mr. President, yesterday the Senate passed a bipartisan crime bill by an overwhelming margin, 95–4. In so doing, we gave the American people a truly significant, if not historic, piece of legislation. It is my hope that when scholars write a history of this Nation's efforts to fight crime, they will regard the Senate's crime bill as the opening chapter of the turning point.

The $22 billion authorization we approved is a substantial sum of money. Some of my colleagues have argued that they would rather see these funds spent on educating our young people, housing the homeless, caring for the sick, or rebuilding our Nation's infrastructure. All are certainly noble, worthy causes.

However, we have a very serious problem facing the Nation today. This problem is the absence of basic freedoms in our daily lives. I am speaking of the freedom from fear in our neighborhoods; the freedom from danger in our schoolyards; and the freedom from terror in public places. Crime is a fundamental national problem.

No government deserves to be called a civil government if it cannot secure the safety and security of its citizens. We are coming perilously close to this state of affairs. Certain parts of the country already are in a state or violent disorder. It is time we get serious about fighting crime. We need to put our money where our mouth is. Yesterday, we did just that.

The Senate also has spent considerable time debating the issue of gun control. It is not a new issue. It has been with us for several years. The most controversial provision of the

crime bill just passed is a measure that would ban several models of assault weapons. And, of course, the Senate has been tangled in a debate over legislation that would impose a waiting period on the legal purchase of a handgun. Debates on gun control measures are very contentious and, at times quite emotional. The recent verbal battles have been no exception.

Today, in the aftermath of the latest debate, I wish to speak about the basic issue of gun control. When discussing any measure that would control the availability of guns, the first and foremost question we in Congress must ask is: Does the measure merely have the appearance of being tough on crime, or does it really do something to reduce crime and violence in our streets?

If this question is avoided or not answered, I fear we will be right back to business as usual. I say that because it is a simple fact that current so-called tough gun control laws simply do not have any real impact on violent crime. Instead, these laws punish law-abiding citizens by limiting their constitutional rights.

For proof, I ask my colleagues to look no further than out the windows of the Capitol. Right now, the District of Columbia has one of the most restrictive gun control statutes in the country. Residents of the District are not permitted to carry a handgun at all. Two very limited circumstances exist for law-abiding residents to even possess a handgun: First, they must have licensed the handgun in the District prior to 1975, when D.C.'s gun control legislation was enacted; or second, they must be a local or Federal law enforcement officer. Members of Congress have an added advantage: We and our staff could be authorized to carry a handgun if our lives have been threatened.

As for rifles or shotguns, the only lawful way for a D.C. resident to lawfully possess these types of weapons is: First, obtain a permit from the District of Columbia; and second, store the weapon disassembled and separate from the ammunition used to fire it. This means it cannot be kept at home ready to use at a moment's notice.

The bottom line is that the second amendment to the Constitution does not apply for the law-abiding citizen in the District of Columbia. It is nonexistent. What does the D.C. citizen get in return for the loss of his or her second amendment rights? Does the citizen get, in return, a city free from violence, free from fear, and free of crime? Hardly. I am sure it will come as no surprise to any Senator that violent crime is not in decline here in the District of Columbia. D.C. citizens have gotten the short end of the deal and we are paying dearly for it.

Every year, the number of murders in the District of Columbia increases. In fact, just two weekends ago, four more people were killed in the District. These murders put this year's murder rate ahead of last year's—with almost 2 months left. More than 400 homicides already have occurred in the District in 1993.

What we have is the darkest of ironies: Our Nation's Capital is the murder capital of the Nation. What more proof does any Senator need? The plain and simple fact is: Gun control does not end crime. It does not stop it. It does not deter it. It does not hinder or hamper violent crime. It does not disarm the lawless. Even worse, all three laws really do is make it more difficult for law-abiding citizens to protect themselves.

Mr. President, The American people are not extremist on the issue of gun control. The people of my home State, South Dakota, have a very reasonable approach. South Dakotans are willing to accept reasonable restrictions on gun availability, but only if violent crime truly will be reduced as a result. In fact, South Dakota currently has a 2-day waiting period for the purchase of handguns, even though violent crime there fortunately is not a problem.

I understand that many see gun control measures, such as the Brady bill as a reasonable approach to solving crime. However, the American people need to know that most, if not all, gun control measures—no matter how reasonable or how strict they may appear on the surface—would not have any noticeable impact on violent crime. Congress will pass them, if at all, only because they create the appearance of being tough on crime.

A better approach to the issue of violent crime is contained in the crime bill we just passed yesterday. Under the Senate bill, anyone who commits a crime with a gun would receive an additional mandatory 10-year sentence; if the gun is fired, the convict would get an additional 20 years; if an assault weapon is used, an extra 30-year mandatory sentence would be imposed. Further, anyone convicted of a gun-related offense three times, or convicted of a crime resulting in death, would get either life in prison or the death penalty. Criminals need to know: Anyone willing to take three strikes against the law with a gun will be put in prison for life or put to death.

Mr. President, this is a really tough approach to violent crime. A career criminal should be a career prisoner. This is not a complicated idea. It is not a new theory of crime control. But it is effective. Violent criminals who use guns need to be locked up for long periods of time. We must get them off the streets and get them behind bars. If we want to take a realistic approach to crime, we should focus more on criminal control, not gun control. That will make a real difference.

Mr. President, I also ask unanimous consent to place in the RECORD an editorial which appeared recently in a South Dakota newspaper, the Yankton Press and Dakotan, on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Yankton Press and Dakotan, Nov. 4, 1993]

A REAL ANTI-CRIME BILL STARTS WITH CROOKS, NOT WITH THE VICTIMS

Sen. Larry Pressler jumped onto President Clinton's so-called crime bill; and former Yanktonian Tom Brokaw spoke in Sioux Falls about how dangerous American cities have become compared to South Dakota.

Both are right.

Meanwhile many of the root causes of crime continue to go unmentioned because it's dangerous political waters to call it like it is, and point out who is committing crime.

Whether one takes a "hard line" toward root problems or a soft, "politically correct" one, we're probably looking at two generations or more to create real change in a growing urban "criminal culture" that has nothing better to do.

Guns? Anti-gun lobby propaganda has many people believing statistics that are just plain wrong. So-called assault weapons are already illegal and guns that look like assault weapons are statistically insignificant in crime. Even the biggest supporter of the Brady Bill's waiting period for guns admit that it would not cut crime.

So why handcuff people wanting to exercise their constitutional rights just to create an image of being anti-crime? The Brady Bill actually means that a strong-arm crook, gang or stalker has a 5-day free ride to terrorize or murder helpless, disarmed victims.

The reality is that much of today's crime is caused by social programs put into place a generation and a half ago supposedly to end the root causes of crime.

How? The "great society" built thousands of "low income housing" units for welfare folks. In urban environments these now are havens for drugs, gangs and organized crime. Non-criminal residents live a life of terror.

Residents are victims of a social breakdown where there is no incentive whatsoever to be law abiding, hard-working citizens. The government provides the basics, and "the good life" is available from crime.

For the time being, the crime bill that Pressler supports makes sense:

The Republican measure supports the death penalty for drug lords, a stop to endless appeals for death row inmates, and harsh, mandatory sentences for people who use guns in the commission of a crime, Pressler said. The Democratic measure doesn't do any of that, he said.

"A career criminal should be a career prisoner," Pressler said of the gun-related provisions in the GOP bill. "That's a real tough approach."

The measure would add mandatory terms of 10 years to a sentence if a criminal uses a gun in a crime, 20 years if the gun is fired, 30 years if an assault weapon is used, and anyone convicted of a gun-related offense three times gets either life in prison or a death penalty," he said.

Pressler also said Republicans want to do away with parole and probation for violent offenders.

A non-criminal literally can have tanks and fighter aircraft without hurting anyone. A criminal mind makes a weapon from a broken broom handle to terrify and victimize people who aren't as physically strong.

The reality is that there is a growing criminal culture, and a response which disarms the non-criminal culture simply aids the predators.

Short-term, put the predators away. Long-term? We've got to dump the criminal culture. That's the real challenge.

## COMMITTEE T1

Mr. BOREN. Mr. President, I call to my colleagues' attention the important and necessary work of a group called Committee T1 and one of its subcommittees T1M1. Committee T1 is a communications advisory group comprised of representatives from private industry and government. In cooperation with the International Telecommunications Union and State Department, Committee T1 develops and recommends the national technical standards in the telecommunications arena that allows industry to compete and Americans to communicate with each other and the rest of the world. Indeed, Committee T1 is playing a key role in the Information Age.

Without objection, I would like to submit for the RECORD an article written by my friend, Dr. Philip Johnson who chairs the important T1M1 subcommittee. The article counsels the communications industry to be mindful of the public good in its pursuit of private interests. In my view, this is sound advise that can apply here in Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALANCE OF PUBLIC GOOD AND PRIVATE INTEREST IN COMMITTEE

(By Phil Johnson)

At my father's funeral this summer, the words of the service reminded me of the spiritual, "Jacob's Ladder." Specifically, I thought about the rendition used as background music in the PBS series on the American Civil War. This rendition was made with the first commercially available audio recording equipment and is in the Library of Congress. It was not the eloquence of the words nor the tonal quality of the music dynamics, but I was mesmerized by the recording. It was as if the "clicker"—that great late twentieth century male power tool for TV control—had itself been put on freeze frame and let the TV play on, unabated. And then I realized that the ex-slaves, recording the song perhaps thirty years after the Civil War, achieved a unity across many voices that is uncommon today. This unity, and its directed, yet mournful calling, in retrospect, is the quintessential soul music. For, what was expressed was their unified expression for a common, unfettered, freedom and acceptance of the private pain that is not shared. It wasn't surprising to learn, in researching the genesis of Jacob's Ladder that the lyrics were everchanging, dependent on the audience and performers, that both whites and blacks used the song and that, two generations ago, this song (and others) was the mainstay of family reunions, that flickering invention, almost extinct today, of people finding common threads in their lives, yet defining their own individuality at the same time.

There is a lesson here for Committee T1. Today, to solve the issues of conflict between the public good and the private interest, we are tempted to take the uni-directional path, the narrow view. And yet to preach of the public interest and to serve only one's private concerns in ways abandoning the public interest, begs for either regulation or revolution. Yet what each of us privately wants is a polity less split by competing pressures, less fragmented by interest adept in moralistic rhetoric and absolutistic posturing, leading to less suspicion and more disposition to mutual cooperation and self-regulation. This self-regulation for the public good within the private sector context of Committee T1 is the only way to both think better of ourselves and act on the best of our common belief.

It will not be easy to achieve such a relationship, in Committee T1 or elsewhere. To work toward one in the interests of Committee T1 entails real risks, particularly if collaboration is pursued in an opportunistic fashion on either side, or is pursued by either party only for private ends.

Committee T1 also plays another role, a role essential in a pluralistic, free society. That is the role of independent critic, critic of the private sector it inhabits and guardian of the shared values of fairness and due process. The historical exercise of that dual role by Committee T1 has not always endeared it to others, nor should it even render Committee T1 immune from the critical insights of others. The essential fact is that the capacity to be an independent responsible voice, speaking its convictions in a reasoned and balanced way, has been vital to America and must continue to be important. It is always necessary, for the health of the rest of the society, that some institution in this country—and I lobby for that to be Committee T1—sustain the reality of nongovernmental solutions to the nation's needs and do that by continuing to send out individuals who understand and wish to strengthen the important traditions of independence and pluralism that have marked our country's history.

It is so much easier to take the easy solution. But it derives from the multi-faceted reality of the lives of these ex-slaves that the harder way—the road less traveled—achieves both public good and private interest in their society and in ours.

## GOVERNMENT WELFARE PROGRAMS

Mr. FAIRCLOTH. Mr. President, I have spent the past 45 years in the private sector meeting a payroll as a farmer and a businessman. Every year I have watched as the Congress went into session and adjourned, leaving it more difficult for me to run my business and meet a payroll because of the excessive rules, regulations, and new Government spending programs that have put our country on the path to an economic catastrophe.

Out of all of the spending programs implemented by the Federal Government, I do not know of a group that has been bigger than those collectively known as welfare. The Federal Government currently runs approximately 75 means tested welfare programs. Government welfare programs—often well intentioned—have destroyed the initiative of whole generations of our citizens.

Welfare has gone from being a helping hand to being a way of life. Its perverse set of incentives and disincentives has made it economically insane for the great bulk of welfare recipients to choose work over leisure.

The result has been the creation of a Government-spawned permanent underclass. The same children who would have, a generation or two ago, been scratching and clawing their way up the ladder of success, are today instead worrying about drug deals, bullets flying through the windows of their apartments in the public housing projects, and about having babies themselves.

Observers from across the political spectrum have recognized that a simple common-sense principle has gotten our nation and the poor into the present fix: You get more of what you pay for. And for the last 3 years we have paid people to not work. As a result, we have gotten a lot of people who are paid but don't work.

Consequently we have seen an explosion of entitlement spending and entitlement mentality. Millions of Americans live day after day, month after month and year after year on paychecks from the government and give nothing in return—except their assurance that they will stay poor, and continue to fuel the Government poverty machine.

This mentality has cost us hundreds of billions of dollars. There is no end in sight. Welfare programs are not currently subject to caps or any discretionary review by the Congress. That means we end up spending vastly more than we can afford, based solely on the numbers generated by welfare bureaucrats.

That is not the way to solve the welfare problem. The first step in reforming the system—which I am outlining today—is to draw a line in the sand, which our current out of control spending must then not cross. I propose we place a cap on the growth of welfare entitlement spending. We must restrict the long term aggregate rate of growth in welfare spending to 4 percent per annum. Some individual programs would be permitted to grow by more than 4 percent. Others would grow by less. But the total growth for all programs must be held collectively at or below 4 percent per annum.

Second, if we are going to begin a real reform of the system—and end the hollow liberal rhetoric of reform—we must move the funding of the welfare machine out of the hands of welfare bureaucrats and their number crunchers. They have let loose an endless flow of taxpayer dollars to those they have determined to be entitled to the federal purse, with no recognition of what makes common sense.

That is why I am announcing my plan to introduce, upon Congress' return from the holidays, a bill to totally overhaul the welfare system in America. It will break the vicious cycle of

welfare dependency by ending the handouts which have crippled the desire of able-bodied people to work.

If a person is on welfare because they truly can't find a job, then they can expect to work for their welfare benefits. People will be helped if they need help, but like everyone else in this country, lying around and collecting a check will not be an option.

There are a number of proposals being talked about, including one by the President, which claim to share the goal of replacing welfare with workfare. But I felt that it was necessary to introduce my own bill because I believe that sound welfare reform legislation is based on seven principles, all of which are not adequately represented in any of the other proposals. I ask unanimous consent that a treatise on their principles be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRINCIPLES OF REAL REFORM

The welfare system desperately needs reform. Real reform would convert welfare from a one way hand-out into a system of mutual responsibility in which welfare recipients would be given aid but would be expected to contribute back to society for assistance given. A reformed system must strongly discourage dependency and irresponsible behavior and encourage constructive behavior. It must firmly control soaring welfare costs which are slowly bankrupting the nation. Finally, and most importantly, welfare reform must seek to reduce the illegitimate birth rate in the U.S. and promote the formation of stable two parent families. Any "reform" which does not dramatically reduce the illegitimate birth rate will not save money and will fail to truly help America's children and society.

Real reform should be based on the following seven principles:

*(1) Establish Serious Workfare.* The key to successful workfare is the number of welfare recipients who are required to participate. Following the pattern of the 1988 reforms it is likely that the Clinton plan will be quite complex, appearing to require large numbers of recipients to perform community service work, when in reality few are. Real reform would require *all* fathers in the AFDC–UP program to perform community service work 40 hours per week in 1994. It would also require able-bodied single persons in the Food Stamp program to work. Finally, half of all single mothers on AFDC should be required to perform community work service for benefits by 1996.

*(2) Establish Sensible Workforce Priorities.* Workfare programs should be efficient and low cost. Workfare should be imposed first on those person who have the least justification for being out of the labor force. Therefore workfare requirements should be imposed initially on able bodied, non-elderly single persons on welfare, followed by fathers in two parent families on welfare and absent fathers who fair to pay child support. After workfare has been put in operation for the preceding groups, those single mothers on AFDC who do *not* have pre-school children should be required to work.

High daycare expenses mean that putting a single mother with a young child to work in a community service work program costs roughly two to three times as much as requiring a mother with an older child to work. Because work programs inevitably operate within fixed budgets, an emphasis on workfare participation by mothers with younger children leads to a sharp reduction in the total number of persons who will be required to work. One little understood aspect of the workfare debate is that liberals often attempt to focus workfare programs on mothers with very young children precisely because they understand this will quickly soak up available funds and thereby limit the number of recipients required to participate. Liberal welfare advocates also would like to undermine the general concept of workfare by showing that all workfare programs cost more than they save; they promote the least cost-effective workfare programs (ie, those with a heavy emphasis on mothers with young children) precisely to for that purpose.

Around half of AFDC single mothers do *not* have any pre-school children under age five. Workfare should be imposed on single mothers with younger children under five only after most mothers with older children have been required to work. (However, if an AFDC mother gave birth to an added child after her initial enrollment in AFDC, that child would not exempt her from work requirements even if the child were under age 5. This rule is needed to prevent mothers from having added children to escape the work requirement.)

*(3) Limit Welfare to Unwed Teen Mothers.* The present welfare system, by paying young women to have children out of wedlock, encourages them in a course of action that in the long-term proves self-defeating to the mothers and harmful to both the children and society. Placing millions of single mothers in work and training programs, will have little positive effect for society as long as the illegitimate birth rate remains over 30 percent.

Congress must go to the heart of the dependency problem by seeking to reduce the number of illegitimate births. It has been a tragic mistake for the government to pay money to fourteen year old girls on the condition that they have children out of wedlock. The government should begin to address the illegitimacy problem by ending the disastrous present policy of giving AFDC cash payments to unmarried teen mothers.

As Washington Post reporter Leon Dash has shown in his book *When Children Want Children*, most unwed teen mothers both conceive and deliver their babies deliberately rather than accidentially.[1] While young women do not bear unwanted children in order to gain a welfare income, they are very much aware of the role which welfare will play in supporting them once a child is born. Refusing to pay young unwed mothers direct cash benefits would certainly result in a sharp and substantial drop in teen illegitimacy.

Federal AFDC funds which are currently given directly to unwed mothers under age 21 should be converted into block grants to the states. State governments could use the funds to develop innovative new policies for assisting those teenagers who continue to have children out of wedlock. Such policies could include supporting the mothers in tightly supervised group homes or promoting adoption, but federal funds could no longer be used to simply give cash welfare to teen mothers.

[1] Leon Dash, "When Children Want Children: an Inside Look at the Crisis of Teenage Parenthood", USA, Penguin Books, 1989.

*(4) Require Paternity Establishment for Children Receiving AFDC.* Current law requires that an AFDC mother must make a "good faith" effort to identify the father of the child in order to receive AFDC. This law is ignored. The government should require, for children born after January of 1994, that the mother must identify the father of the child in order to receive AFDC or Food Stamps.[2] Exceptions to this rule in a few hardship cases could be given but the exceptions should not exceed ten percent.

Modern DNA testing permits us to determine the child's real father with absolute confidence. Once the mother has identified the father and paternity has been established the father can be required to pay child support to offset welfare costs. If the child support paid does not equal half the cost of the welfare benefits received by the mother and child, the remainder should become a debt which the father must repay at a future point in his life.

If the father claims he cannot pay any child support because he cannot find a job, the government may require community service work from him to fulfill his obligation. Experiments with this approach in Wisconsin have led to surprising increases in the ability of absent fathers to locate private sector employment and pay child support. Moreover, the definite expectation among young men that they will be identified as fathers and required to pay child support for their children may put an end to the ethos in some communities, where young men assert their masculinity by fathering children they have no intention to support.

*(5) Reduce Welfare's Marriage Penalty.* The current welfare system heavily penalizes marriage between a mother and a working man. This marriage penalty should be reduced by creating a tax credit for lower income parents who are married and who are working rather than living on welfare.

*(6) Provide Increased Funding for Abstinence Education.* Out of wedlock births are at the core of the expansion of the welfare state as well as many other social problems. Scientific experiments have shown that sexual abstinence curricula substantially change teenager's attitudes toward early sexual activity. Among girls taking abstinence courses, pregnancy rates are reduced by a phenomenal 50% when compared to girls who have not taken the sex abstinence classes. By contrast, programs promoting contraception often increase pregnancy rates.

*(7) Cap the Growth of Welfare Spending.* Any fair observer would note that no matter how frequently we "end welfare", the costs continue to rise. Welfare absorbed around 1.5% of GNP when Lyndon Johnson launched the War on Poverty in 1965; it had risen to over 5% by 1992. With a $308 billion price tag, welfare spending now amounts to $8,300 for each poor person in the U.S. Worse, Congressional Budget Office figures showing total welfare costs rising to a half trillion, about 6% of GNP, by 1998. Predictably, the Clinton administration maintains that a half trillion is not enough; "ending welfare" means adding on even more spending.

The long history of bogus welfare reforms, all of which were promised to save money but did not, leads to one obvious conclusion. The only way to limit the growth of welfare spending is to do just that: Limit the growth

[2] For children born years ago it often is impossible to locate the father. The paternity establishment rule should therefore be applied prospectively: mother should be required to establish paternity in order to receive welfare for children born in 1994 and after.

of welfare spending. The welfare system must be put on a diet. The future growth of federal means-tested welfare spending at should be capped at 4% per annum. Individual programs would be permitted to grow at greater than or less than 4% according to Congressional priorities, but aggregate spending must fall within the 4% ceiling.

By slowing the outpour from the federal welfare spigot, the cap would gradually reduce the subsidization of dysfunctional behavior; dependency, non-work, and illegitimacy. The cap would send a warning signal to state welfare bureaucracies. Cushioned by a steady and increasing flow of federal funds in the past, most bureaucracies have found no need to grapple with the tough and controversial policies needed to really reduce illegitimacy and dependency. With a cap on future federal funds, state governments would, for the first time, be forced to adopt innovative and aggressive policies which would reduce the welfare rolls.

Mr. FAIRCLOTH. Mr. President, the only guarantee my business and its employees have is that if they work hard, apply themselves, and do the right thing, they have an opportunity to carve out a place for themselves and their families in the American system. In short, like all of the other taxpayers in America, they know they have to work for a living.

When government tries to create cradle-to-grave security for people, it not only gives those people a false sense of security, it will destroy the initiative that built this country, and ultimately bankrupt the Nation.

It only makes common sense to expect that people who are being given a helping hand by the working people of America should be expected to at least do a day's work themselves. These working taxpayers who struggle along every day with no guarantees should not be expected to guarantee a way of life for those who choose not to work.

The Congress must take back authorizing authority over welfare programs. Congressional authorizing committees must take back control of the Federal welfare spending bureaucracy, guided by firm caps on what they will be allowed to allocate to programs within their jurisdiction.

The search for true welfare reform will come from spending the taxpayer's money more wisely. The current process is blind, it writes blank checks to the numerous failed Federal and State programs. To get the welfare house in order we have got to have firm caps and oversight.

Mr. President, I look forward to working toward true welfare reform with men and women of good will from both parties. If other Senators have proposals that embody the seven principles that I have outlined, then there is room for agreement.

But any proposal which falls short of those seven principles also falls short of true welfare reform, and the American people expect and deserve better than that. True welfare reform is my commitment to the American people. I invite my colleagues to join me in that commitment.

Mr. President, I ask unanimous consent that an outline of the welfare spending cap bill and other material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTLINE OF WELFARE SPENDING CAP BILL

CONTROLLING WELFARE COSTS

The purpose of this bill is to control the future growth of spending on means-tested welfare programs and programs targeted to economically disadvantaged communities. The bill also gives state governments far greater authority in managing and operating these programs.

*A. Cap the Growth of Total Welfare Spending*

(1) Restrict the long term rate of growth of aggregate spending in the attached list of programs to 4 percent per annum. Individual programs would be permitted to grow by more or less than 4 percent per annum as long as the total growth for all programs was at or below 4 percent.

(2) Each year, the Budget Committee would allocate funds for particular programs to different authorizing Committees within the overall cap limits.

(3) The base year spending for calculating the spending growth caps would be FY 1994. Total spending in FY 1995 would be 0% higher than in FY 1994, spending in FY 1996 would be 4% higher than in FY 1995. Growth in aggregate spending in all subsequent years would be limited to 4 percent per annum.

*B. Convert Entitlement Program into Appropriated Accounts*

(1) All programs on the list which are currently entitlement programs would be converted into appropriated accounts. The authorizing Committee with jurisdiction over each program would be instructed to make changes necessary to operate the program as a discretionary account.

(2) For programs converted from entitlement to discretionary accounts the amount allocated to each state would equal the amount received from that program by the state in FY1993, plus a prorated share of any increase in funds appropriated for the whole program above the FY1993 level. The prorated share would equal the percentage of total program funds received by the state in FY1993. Authorizing Committees would be free to change the state allocation formulae at future points in time.

(3) For all means-tested programs included under the cap state governments would be given full legal authority to determine benefit levels and eligibility criteria for the program. This provision would override any other provision in federal law determining benefit levels and eligibility standards. However, states must ensure that funds from the programs predominantly aid low income persons within the state; low income households meaning households with incomes less than 33 percent of the median household of that size within the state.

(4) For purposes of the Omnibus Budget Reconciliation Act of 1993, all programs on this list which are currently mandatory accounts would not be included under the present discretionary spending caps of the Reconciliation Act. These formerly mandatory programs would continue to be subject to the pay go provisions on mandatory programs.

(5) All savings from spending reductions enacted to conform to the welfare spending cap must be used for deficit reduction; the savings cannot be used to fund increases in other government programs not subject to the cap.

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THE U.S. WELFARE SYSTEM[1]—MEANS-TESTED ASSISTANCE PROGRAMS AND AID TO ECONOMICALLY DISTRESSED COMMUNITIES

CASH AID

Cash 01) Aid to families with dependent children.

FY 1991: federal $12,482 million, state, $10,484 million.

FY 1992: federal $13,569 million, state, $11,354 million.

Budget account number: 75-1501-0-1-609.

Source: Committee on Ways and Means. Committee, U.S. House of Representatives, *Overview of Entitlement Programs: 1993 Green Book*, page 679.

Cash 02) Supplemental security income.

FY 1991: federal $14,228 million, state, $3,751 million.

FY 1992: federal $18,808 million, state, $3,987 million.

Budget account number: 75-0406-0-1-609.

Source: 1991—1992 *Green Book*, pp. 825-826; 1992—Office of Supplemental Security Income, Office of Budget.

Cash 03) Earned income tax credit (EITC)—refundable competent only.

FY 1991: federal $8,465 million.

FY 1992: federal $10,605 million.

Budget account number: 20-0906-0-1-609.

Source: *Overview of Entitlement Programs: 1993 Green Book*, p. 1058.

Cash 04) Foster care: Title IV E.

FY 1991: federal $1,819 million, state, $1,037 million.

FY 1992: federal $2,209 million, state, $1,259 million.

Budget account number: 75-1545-1-1-506.

Source: *Overview of Entitlement Programs: 1993 Green Book*, page 886.

Cash 05) Assistance to refugees and Cuban/Haitian entrants (cash component).

FY 1991: federal $192.15 million.

FY 1992: federal $165.215 million.

Budget account number: 75-1503-0-1-609.

Source: Office of Refugee Resettlement.

Cash 06) Emergency assistance to needy families with children.

FY 1991: federal $153 million, state, $153 million.

FY 1992: federal $133.5 million, state, $133.5 million.

Budget account number: 75-1501-0-1-609.

Source: *Overview of Entitlement Programs: 1993 Green Book*

Cash 07) Adoption assistance.

FY 1991: federal $189.832 million, state, $108.204 million.

FY 1992: federal $205.611 million, state, $116.850 million.

Budget account number: 75-1545-1-1-506.

1992—Appendix, p. 602, (HHS) *FY 1994 Budget of the United States Government*.

Medical 04) Medical assistance to refugees and Cuban/Haitian entrants.

FY 1991: federal $157.516 million.

FY 1992: federal $184.982 million.

Budget account number:

Source: U.S. Department of Health and Human Services, Office of Refugee Resettlement.

Medical 05) Migrant health centers.

FY 1991: federal $49.421 million.

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[1] Where specific figures on state spending have not been available, state spending figures have been calculated by the formula used by the Congressional Research Service, "Cash and Non-Cash Benefits for Persons with Limited Income: Eligibility Rates, Recipient and Expenditure Data, FY 1980-1990."

FY 1992: federal $57.636 million.
Budget account number: 75-1101-0-1-550.
Source: 1991—Appendix I, p. 494, (HHS) *FY 1993 Budget of the United States Government. 1992—Appendix, p. 602, (HHS) FY 1994 Budget of the United States Government.*

FOOD AID

Food 01) Food stamps
FY 1991: federal $19,765 million, state $1,247 million.
FY 1992: federal $23,540 million, state $1,378 million.
Budget account number: 12-3505-0-1-605.
Source: *Overview of Entitlement Programs: 1993 Green Book*, page 1609.
Food 02) School lunch program (free and reduced price segments for children with family incomes below 185 percent of the federal poverty income threshold).

FY 1991: federal $3,623.1 million.
FY 1992: federal $4,015.0 million.
Budget account number: 12-3539-0-1-605.
Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*
Food 03) Special supplemental food program for women, infants, and children (WIC).
FY 1991: federal $2,300.5 million.
FY 1992: federal $2,566.5 million.
Budget account number: 12-3510-0-1-605.
Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*
Food 04) The emergency food assistance program (TEFAP).
FY 1991: federal $168.302 million.
FY 1992: federal $189.3 million.
Budget account number: 12-3635-0-1-351.
Source: 1991—p. 356, *FY 1993 Budget*. 1992—p. 389, *FY 1994 Budget.*
Food 05) Nutrition program for the elderly.
FY 1991: federal $578.211 million state $65.728, million.
FY 1992: federal $598.027 million, state $68.020, million.
Budget account number:
Source: Department of Health and Human Services; Program Information Division, USDA.
Food 06) School breakfast program (free and reduced price segments for low income children)
FY 1991: federal $667.3 million.
FY 1992: federal $763.7 million.
Budget account number: 12-3539-0-1-605.
Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*
Food 07) Child and adult care food program.
FY 1991: federal $491.5 million.
FY 1992: federal $509.3 million.
Budget account number: 12-3539-0-1-605.
Source: Program Information Division, Food and Nutrition Service, USDA, and Congressional Research Service.
Food 08) Summer food service program for children.
FY 1991: federal $180.9 million.
FY 1992: federal $206.1 million.
Budget account number: 12-3539-0-1-605.
Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*
Food 09) Needy families food distribution program (commodity food distribution program on Indian reservations in lieu of food stamps).
FY 1991: federal $64.67 million.
FY 1992: federal $62.178 million.
Budget account number: 12-3503-0-1-605.
Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*
Food 10) Commodity supplemental food program (CSFP) for mothers, children and elderly persons.
FY 1991: federal $67.8 million.
FY 1992: federal $89.8 million.
Budget account number: 12-3512-0-1-605.
Source: U.S. Department of Agriculture, Food and Nutrition Service, *Food Program Update: a Review of FNS Food Assistance Program Activity, Fiscal Year 1992.*
Food 11) Special milk program (free segment).
FY 1991: federal $1.3 million.
FY 1992: federal $1.8 million.
Budget account number: 12-3502-0-1-605.
Source: Congressional Research Service.

HOUSING AID

Housing 01) Section 8 lower income housing assistance.
FY 1991: federal $11,400 million.
FY 1992: federal $12,307 million.
Budget account number: 86-0139-0-1-604.
Source: Congressional Research Service *Cash and Non-cash Benefits.*
Housing 02) Low-rent public housing.
FY 1991: federal $4,544.19 million.
FY 1992: federal $5,007.86 million.
Budget account number:
Source: 1991—Appendix I, pp. 536, 554, (HUD) *FY 1993 Budget of the United States Government*. 1992—Appendix I, pp. 643, (HUD) *FY 1994 Budget of the United States Government.*
Housing 03) Section 502 rural housing loans for low income families.
FY 1991: federal $1,317.655 million.
FY 1992: federal $1,479.522 million.
Budget account number:
Source: *FmHA Total Obligations Report Through FY 92*, January, 1993, p. 39.
Housing 04) Section 236 interest reduction payments.
FY 1991: federal $553.141 million.
FY 1992: federal $652.434 million.
Budget account number: 86-0148-0-1-604.
Source: 1991—Appendix I, pp. 536, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 643, (HUD) *FY 1994 Budget of the United States.*
Housing 05) Section 515 rural rental housing loans.
FY 1991: federal $576.334 million.
FY 1992: federal $573.030 million.
Budget account number:
Source: *FmHA Total Obligations Report Through FY 92*, January, 1993.
Housing 06) Section 521 rural rental assistance payments.
FY 1991: federal $308.094 million.
FY 1992: federal $298.72 million.
*Source: FmHA Total Obligations Report Through FY 92*, January, 1993.
Housing 07) Section 235 homeownership assistance for low-income families.
FY 1991: federal $109.028 million.
FY 1992: federal $45.357 million.
Budget account number: 86-0148-0-1-604.
Source: 1991—Appendix I, pp. 536, 554, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 643, (HUD) *FY 1994 Budget of the United States Government.*
Housing 08) Section 101 rent supplements.
FY 1991: federal $49.589 million.
FY 1992: federal $54.5 million.
Budget account number:
Source: Department of Housing and Urban Development, Office of Budget.
Housing 09) Indian housing improvement grants.
FY 1991: federal $22.956 million.
FY 1992: federal $20.134 million.
Budget account number: 14x-2301-0-1-452.
Source: 1991—Appendix I, p. 623, (DOInterior) 452-00.03 *FY 1992 Budget of the United States Government.* 1992—Department of Interior.
Housing 10) Section 504 rural housing repair loans grants for very low income rural home owners.
FY 1991: federal $23.917 million.
FY 1992: federal $12.508 million.
Budget account number:
Source: *FmHA Total Obligations Report Through FY 92*, January 1993.
Housing 11) Section 514 farm labor housing loans.
FY 1991: federal $13.836 million.
FY 1992: federal $15.942 million.
Budget account number:
Source: *FmHA Total Obligations Report Through FY 92*, January, 1993.
Housing 12) Section 523 rural housing self-help technical assistance grants and section 523 rural housing loans.
FY 1991: federal $13.704 million.
FY 1992: federal $8.603 million.
Budget account number:
Source: *FmHA Total Obligations Report Through FY 92*, January, 1993.
Housing 13) Section 516 farm labor housing grants.
FY 1991: federal $10.667 million.
FY 1992: federal $13.519 million.
Budget account number:
Source: *FMHA Total Obligations Report Through FY 1992.*
Housing 14) Section 533 rural housing preservation grants for low income rural home owners.
FY 1991: federal $22.999 million.
FY 1992: federal $23.000 million.
Budget account number:
*Source: FmHA Total Obligations Report Through FY 92*, January, 1993.

ENERGY AID

Energy 01) Low-energy home energy assistance program.
FY 1991: federal $1,742.075 million state $112 million.
FY 1992: federal $1,142.317 million state $88 million.
Budget account number: 75-0420-0-1-609
Source: 1991—Appendix I, p. 518, (HHS) *FY 1993 Budget of the United States Government*, and Department of Energy. 1992—Appendix, p. 624, (HHS) *FY 1994 Budget of the United States Government*, and Department of Energy.
Energy 02) Weatherization assistance.
FY 1991: federal $198 million.
FY 1992: federal $194 million.
Budget account number: 89-0215-0-1-999.
Source: Department of Energy, Weatherization Assistance Program.

EDUCATION AID

Education 01) Pell grants.
FY 1991: federal $5,274.869 million.
FY 1992: federal $5,621.657 million.
Budget account number: 91-0200-0-1-502.
Source: 1991—Appendix I, p. 436, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 542, (DOE) *FY 1994 Budget of the United States Government.*
Education 02) Head start.
FY 1991: federal $2,055,267 million state: $514 million.
FY 1992: federal $2,201,763 million state: $550 million.
Budget account number: 75-1636-0-1-506.
Source: 1991—Appendix I, p. 520, (HHS) *(FY 1993 Budget of the United States Government.* 1992—Appendix I, p. 627, (HHS) *FY 1994 Budget of the United States Government.*

Education 03) Title one grants to local education authorities for educationally deprived children under the elementary and secondary education act.

FY 1991: federal $5,557.985 million.

FY 1992: federal $6,158.813 million.

Budget account number: 91-0900-0-1-501.

Source: 1991—Appendix I, p. 425 (DOE) *FY 1993 Budget of the United States Government.* (Basic Grants and Concentration Grants Under Chapter I). 1992—Appendix I, p. 531, (DOE) *FY 1994 Budget of the United States Government.*

Education 04) Supplemental educational opportunity grants (SEOG).

FY 1991: federal $523.810 million.

FY 1992: federal $578.481 million.

Budget account number: 91-0200-1-512.

Source: 1991—Appendix I, p. 436, (DOE) *FY 1993 Budget of the United States.* 1992—Appendix, p. 542, (DOE) *FY 1994 Budget of the United States.*

*Government.* Education 05) Chapter one migrant education program.

FY 1991: federal $294.596 million.

FY 1992: federal $308.298 million.

Budget account number: 91-0900-0-501.

Source: Office of Migrant Education, Department of Education

Education 06) Special programs for students from disadvantaged backgrounds (trio programs).

FY 1991: federal $333.758 million.

FY 1992: federal $385.139 million.

Budget account number:

Source: 1991—Appendix I, p. 446, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, P. 549, (DOE) FY 1994 Budget of the United States Government.

Education 07) State student incentive grants (SSIG) for needy students.

FY 1991: federal $63.537 million state $63.537 million.

FY 1992: federal $68.728 million state $68.728 million.

Budget account number: 91-0200-0-1-502.

Source: 1991—Appendix I, p. 437, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, P. 542, (DOE) *FY 1994 Budget of the United States Government.*

Education 08) Fellowships for graduate and professional study for disadvantaged minorities.

FY 1991: federal $41.797 million.

FY 1992: federal $51.581 million.

Budget account number: 91-0900-0-1-502.

Source: Department of Education.

Education 09) Follow through.

FY 1991: federal $7.265 million.

FY 1992: federal $8.632 million.

Budget account number: 91-1000-0-1-501.

Source: 1991—Appendix I, p. 427, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 533, (DOE) *FY 1994 Budget of the United States Government.*

Education 10) Even start.

FY 1991: federal $48.635 million.

FY 1992: federal $68.991 million.

Budget account number: 91-0900-0-1-501.

Source: 1991—Appendix I, p., 425, (DOE) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 531, (DOE) *FY 1994 Budget of the United States Government.*

JOBS AND TRAINING AID

Training 01) Training for disadvantaged adults and youth (JTPA II-A), block grant).

FY 1991: federal $1,778.484 million.

FY 1992: federal $1,773.484 million.

Budget account number: 16-0174-0-1-504-00.01.

Source: 1991—Appendix I, p. 676, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 786, (DOL) *FY 1994 Budget of the United States Government.*

Training 02) Summer youth employment program (JTPA II-B)

FY 1991: federal $699.777 million.

FY 1992: federal $1,182.880 million.

Budget account number: 16-0174-0-1-504-00-02.

Source: 1991—Appendix I, p. 676, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 786. (DOL) *FY 1994 Budget of the United States Government.*

Training 03) Job corps (JTPA-IV).

FY 1991: federal $805.270 million.

FY 1992: federal $925.826 million.

Budget account number: 16-0174-0-1-504-00.12.

Source: 1991—Appendix I, p. 676, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 786, (DOL) *FY 1994 Budget of the United States Government.*

Training 04) Senior community service employment program.

FY 1991: federal $359.885, state, $39.99.

FY 1992: federal $397.872, state, $44.21.

Budget account number: 16-0175-0-1-504.

Source: 1991—Appendix I, p. 677, (DOL) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 787, (DOL) *FY 1994 Budget of the United States Government.*

Training 05) Job opportunity and basic skills training (JOBS).

FY 1991: federal $560.165 million, state, $347.485 million.

FY 1992: federal $496.460 million, state, $294.278 million.

Budget account number: 75-1509-0-1-504.

Source: Office of Financial Management, Administration for Children and Families, HHS.

Training 06) Foster grandparents.

FY 1991: federal $62.081 million, state, $14 million.

FY 1992: federal $65.590 million, state, $14 million.

Budget account number: 44-0103-0-1-506.

Source: Office of Management and Budget, Planning and Budget Division.

Training 07) Senior companions.

FY 1991: federal $27.557 million, state, $7 million.

FY 1992: federal $28.727 million, state, $7 million.

Budget account number: 44-0103-0-1-506.

Source: Office of Management and Budget, Planning and Budget Division.

Training: 08) Migrant and seasonal farm workers training program.

FY 1991: federal $138.224 million.

FY 1992: federal $151.736 million.

Budget account number: 16-0174-0-1-504.

Source: Office of Specially Targeted Programs, Office of Job Training Programs, Employment and Training Administration.

Training 09) Indian and Native American employment and training program.

FY 1991: federal $72.350 million.

FY 1992: federal $82.693 million.

Budget account number: 16-0174-0-1-504.

Source: Office of Specially Targeted Programs, Office of Job Training Programs, Employment and Training Administration, DOL.

SOCIAL SERVICES

Services 01) Social services block grant (Title XX).

FY 1991: federal $2,822.492 million, state, $2,229 million.

FY 1992: federal $2,707.538 million, state, $2,138 million.

Budget account number: 75-1634-0-1-506.

Source: 1991—Appendix I, p. 519, (HHS) *FY 1993 Budget of the United States. Government.* 1992—Appendix, p. 626, (HHS) *FY 1994 Budget of the United States Government.*

Services 02) Community services block grant.

FY 1991: federal $420.639 million.

FY 1992: federal $442.384 million.

Budget account number: 75-1504-0-1-506.

Source: 1991—Appendix I, p. 519, (HHS) *FY 1993 Budget of the United States Government.* 1992—Appendix I, p. 625, (HHS) *FY 1994 Budget of the United States Government.*

Services 03) Legal services corporation.

FY 1991: federal $327.186 million.

FY 1992: federal $350 million.

Budget account number: none.

Source: Assistant to the President and Counsel to the Board of Directors, Office of the President, Legal Services Corporation.

Services 04) Emergency food and shelter program.

FY 1991: federal $134 million.

FY 1992: federal $134 million.

Budget account number: 58-0103-0-1-605.

Source: Federal Emergency Management Agency.

Services 05) Social services for refugees and cuban/haitian entrants.

FY 1991: federal $66.811 million.

FY 1992: federal $67.009 million.

Budget account number:

Source: *Report to Congress,* Office of Refugee Resettlement, 1991, 1992, 1993.

Services 06) Title X family planning.

FY 1991: federal $140.609 million.

FY 1992: federal $149.404 million.

Budget account number: 75-0350-0-1-550.

Source: 1991—p. 494, *Budget for the United States Government FY 1993.* 1992—p. 603, *Budget for the United States Government FY 1994.*

Services 07) Volunteers in service to America (VISTA).

FY 1991: federal $34.8 million.

FY 1992: federal $37.5 million.

Budget account number: 75-1536-0-1-506.

Source: Office of Management and Budget, Planning and Budget Division, ACTION.

Service 09) Title IIIb supportive services under the older americans act.

FY 1991: federal $291.051 million.

FY 1992: federal $299.238 million.

Budget account number:

Source: 1991—Appendix I, p. 520, (HHS) *FY 1994 Budget of the United States Government.* 1992—Appendix, p. 627, (HHS) *FY 1994 Budget of the United States Government.*

Services 10) Daycare assistance for families "at risk" of welfare dependence.

FY 1991: federal $216.248 million.

FY 1992: federal $381.550 million.

Budget account number:

Source: *Overview of Entitlement Programs: 1993 Green Book,* page 1010.

DEVELOPMENT AID

Community aid 01) Community development block grant.

FY 1991: federal $2,976.388 million

FY 1992: federal $3,090.281 million

Budget account number: 86-0162-0-1-451

Source: 1991—Appendix I, p. 559, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 666, (HUD) *FY 1994 Budget of the United States Government.*

Community aid 02) Urban development block grant program (UDAG)

FY 1990 federal $128.267 million

FY 1992: federal $51.604 million

Budget account number: 86-0170-0-1-451

Source: 1991—Appendix I, p. 560, (HUD) *FY 1993 Budget of the United States Government.* 1992—Appendix, p. 667, (HUD) *FY 1994 Budget of the United States Government.*

Community aid 03) Economic development administration.

FY 1991: federal $153.137 million

FY 1992: federal $140.560 million

Budget account number: 13-2050-0-1-452

Source: 1991—Appendix I, p. 376, (Department of Commerce) *FY 1993 Budget of the*

*United States Government*. 1992—Appendix, p. 410, (DOC) *FY 1994 Budget of the United States Government*.

Community aid 04) Appalachian regional development program

FY 1991: federal $163.132 million

FY 1992: federal $130.795 million

Budget account number: 46-0200-0-1-452

Source: 1991—Appendix I, p. 929, (Appalachian Regional Commission0 *FY 1993 Budget of the United States Government*. 1992—Appendix, p. 1038 (Appalachial Regional Commission) *FY 1994 Budget of the United States Government*.

Community aid 05) Legalization impact aid

FY 1991: federal $827.474 million

FY 1992: federal $501.327 million

Budget account number: 75-1508-0-1-506

Source: 1991—Appendix I, p. 519, (HHS) *FY 1993 Budget of the United States Government*. 1992—Appendix I, p. 625, (HHS) *FY 1994 Budget of the United States Government*.

## STATEMENT ON THE NOMINATION OF REED E. HUNDT

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of Reed E. Hundt to the Federal Communications Commission [FCC]. The President has indicated his intention to designate Mr. Hundt as Chairman once he is confirmed. The Commerce Committee reported the nomination of Mr. Hundt without objection on October 6, 1993, and Senators from both sides of the aisle have indicated the importance of moving quickly on Mr. Hundt's nomination.

Mr. Hundt is well-qualified for the position of FCC Chairman, having founded the telecommunications practice at his law firm, Latham & Watkins, and having represented several public interest clients on a pro bono basis. In his nomination hearing before the Senate Commerce Committee on September 22, 1993, Mr. Hundt clearly demonstrated that he understands the many important issues facing the FCC.

In particular, the FCC must grapple with implementation of the new Cable Act and spectrum allocation. In addition, I am particularly interested in working with the FCC as the Senate considers measures to address the problem of violence on television.

In dealing with these and other important issues, Mr. Hundt, if confirmed, must consider the concept of public interest regulation. Under previous administrations, we often heard only about deregulation and more deregulation. The Communications Act of 1934 does not call for deregulation; it calls for appropriate regulation in the public interest, convenience and necessity. The FCC must show respect for this legislative mandate.

If confirmed, Mr. Hundt will become Chairman, replacing Interim Chairman James Quello, who will remain as Commissioner. During this transition period, Mr. Quello has made an outstanding contribution, continuing his distinguished service at the FCC over the past two decades. He has overseen the initial phases of implementation of the 1992 Cable Act, and has led the FCC to issue rules for personal communications services. Jim Quello is to be commended for his leadership during this period.

I urge my colleagues to support Mr. Hundt's confirmation, and I look forward to working closely with him once he is confirmed.

## HONORING THE VIETNAM WOMEN'S MEMORIAL

Mr. WARNER. Mr. President, I rise today to talk about a very special event I had the honor of attending. On March 10, 1993, I went to a luncheon in honor of the Vietnam Woman's Memorial project given in Statuary Hall of the U.S. Capitol. Among the guests present, there were volunteers from the project, distinguished veterans, leaders of the major veterans organizations, and Members of Congress. These guests came to honor those associated with the Vietnam Women's Memorial.

One individual, however, is deserving of special praise, Diane Carlson Evans. Through her will and dedication, this memorial was made possible. As a nurse in the Vietnam war, Mrs. Carlson Evans saw first hand the horror of this conflict. Like so many other veterans of the Vietnam war, she returned to this country not as a hero, but as a pariah in societies' eyes. With this memorial, America is finally extending remembrance to a long-forgotten group of Vietnam veterans; the women. Overcoming tremendous obstacles, Mrs. Carlson Evans proved that one person can make a difference.

The challenge of capturing the emotion of the Vietnam war through the eyes of those women who served, was taken by Ms. Gleena Goodacre. Ms. Goodacre, a sculptor from Santa Fe, NM, created a bronze statue depicting three women surrounding a fallen male comrade. I see in this work the same genius that was in the design of the Vietnam Veterans' Memorial. The ability to freeze frame a moment in history while evoking all those emotions associated with that moment is truly extraordinary. Ms. Goodacre's sculpture brilliantly succeeds in providing the physical symbol of healing for those women who have waited 20 years for peace and may at last begin to experience it.

At the luncheon, remarks were made by Senator STROM THURMOND, Congressman TIM PENNY, Senator BOB DOLE, and Representative CONNIE MORELLA. All touched on the importance of this memorial, and the impact it has on all men and women. From specifically recognizing nurses who served in Vietnam, to highlighting contributions made by all women in time of war, this memorial helps in the healing process associated with the Vietnam war. Furthermore, it draws attention to the needs of women veterans today and our continued efforts to provide for the veterans of this country. I would like to have included in the RECORD, the remarks of the Majority Leader, Senator GEORGE MITCHELL. I believe the words spoken by my distinguished colleague truly summarizes the sentiments felt about the Vietnam Women's Memorial.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
OFFICE OF THE MAJORITY LEADER,
*Washington, DC, November 10, 1993.*

For immediate release

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL REGARDING CELEBRATION OF PATRIOTISM AND COURAGE

I am pleased to be here with such a distinguished group to join you in your Celebration of Patriotism and Courage to commemorate the dedication of the Vietnam Women's Memorial. I am especially pleased to be able to accept this sculpture on behalf of the Senate Veterans' Affairs Committee and the rest of the Senate.

Tomorrow, the nation's newest memorial will be unveiled on the Mall, in a grove of trees near the Reflecting Pool. When dedicated, the Vietnam Women's Memorial will become the first memorial honoring the military service of American women.

The memorial, approved by Congress and funded by private donations, is a moving tribute to the 11,000 female military and medical personnel who served in Vietnam.

Women served with great courage and dedication in Vietnam and made invaluable contributions in many critical roles. The memorial is a poignant reminder of the debt America owes to those women who served in the defense of our nation and its values.

Congress is currently taking other actions to ensure that the women who have served their country receive all of the benefits which they have so clearly earned.

Senator Rockefeller and Congresswoman Schroeder have introduced legislation to improve the Department of Veteran Affairs program of sexual trauma counseling for veterans and to enhance the VA's women veterans coordinator program. Senators Warner and Mikulski and Representatives Evans, Morella, and Lambert have been instrumental in developing and advancing these important bills.

I support this legislation, which was unanimously approved by the full Senate Veterans' Affairs Committee of which I am a member, and hope that it will be enacted into law in the near future.

I believe that our nation owes a tremendous debt to all of its veterans, male and female. However, we owe a special debt to the women veterans who have served so honorably, for so long, with so little recognition.

The Vietnam Women's Memorial is a highly visible symbol of the contribution which women veterans have made. It is also a first step in securing for women veterans the recognition and benefits to which they are entitled.

I commend the members of the Vietnam Women's Memorial project for their tireless efforts in securing the approval and funding for completion of this memorial. I also commend the sculptor, Glenna Goodacre, for her vision in designing the statute. I appreciate the work all of you have done on behalf of America's women veterans, and know that

you have the appreciation of all Americans as well.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

## STATEMENT ON THE NOMINATION OF LINDA HALL DASCHLE

Mr. LAUTENBERG. Mr. President, I rise today to enthusiastically support Linda Hall Daschle for the position of Deputy Administrator of the Federal Aviation Administration.

Linda has worked professionally in the aviation field for her entire career and has developed significant expertise in all aspects of our Nation's aviation system. She currently serves as senior vice president of the American Association of Airport Executives, a position she has held since 1987. In this capacity, she has directed the association's Federal affairs and environmental affairs departments, working in the areas of airport operations, safety, security, and capital development. Prior to this appointment, she served as director of Federal affairs of the Air Transport Association of America, Director of the Office of Congressional, Community and Consumer Affairs at the Civil Aeronautics Board, and as Regional Director of the CAB with responsibility for a 13-state region in the Midwest.

Linda's work in aviation has been marked with distinction, and she has taken on positions of increasing responsibility and challenge. She has demonstrated management skills and has excelled at reaching out to affected parties, the public, and State and local governments. She is thoroughly familiar with current policy issues and can work well with Congress. She is bright, articulate, knowledgeable, effective, and accomplished in her work and would be an excellent Deputy Administrator at the FAA. Her integrity is unquestioned.

Linda will serve the administration and the country well in this position. I support her strongly and urge a quick confirmation.

## HAWAII COMPUTER TRAINING CENTER: REAFFIRMING SELF-WORTH

Mr. AKAKA. Mr. President, I would like to bring to the attention of this body a program whose inspiring success has impressed me greatly—the Hawaii Computer Training Center [HCTC].

It is as multifaceted as a rare gem. It represents a partnership between a community-based nonprofit organization and a global business giant. It is supported by Federal, State, and corporate funding. Its students may be in their late teens or in their sixties, or anywhere in between. It takes unemployed disadvantaged and minority trainees and gives them the ability to compete in a high-technology world.

HCTC is a joint venture between IBM Corp. and Alu Like, Inc., whose primary mission, throughout my home State, is to assist native Hawaiians in achieving social and economic excellence. Through the efforts of this IBM/Alu Like partnership and a local team of caring corporate sponsors, HCTC provides no-fee training for individuals who are unemployed or underemployed, who are unable to afford such training through conventional means and who have a true desire to improve themselves and their futures.

Since HCTC's doors opened in 1986, they have graduated nearly 350 students. Their job placement rate is 95 percent.

Yet, beyond the praiseworthy structure and the incredible employment success statistics, the essence of HCTC lies in the hearts of the truly special people who are part of each graduating class.

This past July, I was privileged to speak at the commencement of class XVIII. I can say, with fervent conviction, that the ceremony, like all others before it, marked much more than merely the completion of 15 weeks of intense computer training. It was a monument to the human spirit.

Every HCTC commencement bears testimony to an absolute commitment to purpose—an unwavering dedication, despite great personal sacrifice, to the pursuit of a valued mission and the achievement of a very admirable goal.

Every HCTC commencement pays tribute to personal strength in the search for a better tomorrow—courage, in the face of sometimes horrifying and intimidating odds, to take up the challenge and claim the right to a brighter future.

Every HCTC commencement is a forceful and undeniable reminder to the world of the unique identity and value of every individual graduate. It is a reaffirmation, to a society that often treats its members as faceless, that every one of these men and women is someone worthy of recognition, someone of dignity, someone who now holds what had previously seemed like out-of-reach dreams in his or her own hands.

And every HCTC commencement reflects achievements that have and can take on far greater and broader significance than even some graduates may recognize. The gloriousness of what they have accomplished for themselves also stands as a beacon of encouragement, empowerment and guidance to who knows how many others out in the community at large.

The American essayist Norman Cousins said, "The starting point for a better world is the belief that it is possible."

By taking that truth to heart and proving its value year after year, the Hawaii Computer Training Center, Alu Like, IBM, all others involved in support of this program and, most importantly, every successful student, continue to make believers out of everyone they touch.

They do not simply fulfill personal ambitions; they set prominent and lasting examples for us all. the brilliant flame of their achievements does not merely light individual paths to the future, they kindle new fires of hope all around them.

Mr. HATFIELD. Mr. President, will the Senator yield for one unanimous-consent request?

Mr. BRADLEY. I yield.

Mr. HATFIELD. I thank the Senator.

## COSPONSOR ADDITION TO S. 1592

Mr. HATFIELD. Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 1592, legislation introduced by my colleague from North Dakota, Senator DORGAN, regarding unfunded Federal mandates.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senator BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I ask for order in the Senate.

The PRESIDING OFFICER. Will the Senate please come to order.

The Senator from New Jersey has the floor.

Mr. BRADLEY. Mr. President, I ask unanimous consent that a statement by me that restates and elaborates the points I made in the debate on NAFTA appear in the RECORD prior to the final vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RETIREMENT OF MARINA GENTILINI

Mr. BRADLEY. Mr. President, I rise to express my appreciation and respect for Marina Gentilini who served as my personal assistant for 15 years. Marina Gentilini will be retiring for health reasons at the end of this month after a career in Federal service that expanded the House of Representatives, the Commerce Department, and the Agriculture Department.

What can you say about someone who has been your right hand for 15 years? Loyal, competent, dedicated. She arrived in my office every morning by 7:30 and rarely left before 7:30, 8:30, even 9:30. She worked weekends, snatched vacations only when it was appropriate and wherever she was and whatever she was doing always remained available for my call.

An airplane canceled on a Sunday, call Marina. A speech that needed a new draft, call Marina. A train that

had to be met, call Marina. A visitor needed a place to meet, call Marina.

A birthday or an anniversary that was almost forgotten, Marina called you. A TV appearance that could not be missed, Marina called you. Those 10 telephone messages that just had to be returned, Marina called you. A family from New Jersey whose 10-year old son wanted a picture with you, Marina called you.

Marina set a tone of professionalism that insisted on quality, some might say perfection, in little things such as the clothes people wore or in big things such as assuring ethical standards that were purer than Caesar's wife. She was steadfast and uncompromising.

Although she lived many years in Washington she never forgot her roots in the Minnesota small town where she grew up in a wonderful family that instilled her with a burning desire to excel and to serve. In many ways she never left that small town. In many ways I never left the small Missouri town I grew up in. That was one of our bonds.

Do not say a bad word about BRADLEY in Marina's presence or she will take your head off. Privately she was quite candid about my many obvious shortcomings, but publicly her perceptions of me shared with the world conveyed only the positive.

All people who telephoned me got Marina. After a conversation with her, they felt better even if the answer was no. She listened, empathized, counseled.

Knowing that in Washington there are two kinds of people, those who talk and those who do, Marina never left any doubt that she was a person of action. The paper had to move. The calls had to be made. The details that are the difference between the ordinary and the exceptional had to be attended to.

Marina also was a part of my family. My wife Ernestine relied on her, and our daughter Theresa Anne grew up with her in a role of loving aunt. In fact, I came to think of Marina as the older sister I never had.

So decades of service have come to an end. No more deadlines. No more schedules. No more tension. No more stress.

Marina deserves a lighter load, a long life, and the affection of those who care about her. She has mine and my family's, as well as my gratitude to her for 15 years of extraordinary dedication, competence, and loyalty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the Chair.

Mr. President, I think all of us who had the privilege of hearing those remarks of the distinguished colleague from New Jersey were deeply touched.

Mr. President, we cannot hear. May we have order in the Chamber? I will just wait a minute.

The PRESIDING OFFICER. The cheer is for the Senator from Virginia.

Mr. WARNER. Mr. President, I recognize there are certain things as a football game going on, and momentarily I will resume.

## NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. WARNER. Mr. President, I rise as one of the very last Senators to express my conviction that the North American Free-Trade Agreement is in the best interests of this country, and I shall shortly cast my vote in its support.

I do so like almost every colleague, after a very, very long period of deliberation and study, and I also do so bringing back the refrain from an old song that I knew so well during World War II. It related to primarily our bomber force, but the song went something like "coming home on a wing and a prayer." And that is the way I feel.

My prayer is that this agreement will help give Mexico the courage and the conviction to join America as a full partner in stopping the ever-increasing illegal flow of drugs across that border. My prayers will likewise be that we join together as full partners the two nations in stemming the flow of illegal immigration.

My vote is cast for those two reasons, not for any promise from the White House or any other piece of largess or politics or otherwise. It is really solidly for those two reasons.

The wing is like the sturdy wing. It is like that wing that supported our free trade through these many years of our country. It has been a concept that each time has remained sturdy and it has remained sound.

Let us look at the North American Free-Trade Agreement for what it is. It is really an experiment. There have been the hours and hours of debate, the study, the hearings. Well-intentioned people have come forth time and time again.

I have listened to all that is going to happen for the good in this country and all that is going to happen for the good in Mexico. And it is described as a panacea; it is going to solve almost every ill on this side of the border and every ill on that side of the border. I thought sometimes we transplanted the word "panacea" in the dictionary for NAFTA.

For instance, I must have had a dozen industrialists into my office this past week, well-intentioned manufacturers of Virginia, everyone of them solidly in favor. Then they recounted time and time again we are ready to go, we are ready to send this. It is like everyone was lining up like an Oklahoma land rush flying down in Mexico.

If you listened to the detractors you hear that everybody on the Mexican side is ready like a land rush to flow up into the United States.

Really we do not know what is going to happen. This is an experiment, but we go in it with good faith and good intentions and the hope and the prayer that it survives.

If it does not work out, I hope this body has the courage to stand up and face that fact and make such adjustments as may be necessary.

I yield the floor.

Mr. AKAKA. Mr. President, I have carefully considered the various studies and arguments offered by both sides and have listened closely to the Senate debate over the past 2 days. I have decided to vote against this North American Free-Trade Agreement.

I am dismayed by the hyperbole and caricature frequently employed by NAFTA advocates to portray opponents of this agreement as frightened protectionists or captives of special interests. Mr. President, I share the goals and vision so eloquently expressed by President Clinton in arguing the NAFTA. I share the President's commitment to ensure a strong and competitive American economy, to provide good business opportunities for U.S. firms and high-paying, skilled jobs for our workers, and to promote democratic ideals and values abroad. I support free and fair trade and know for a fact that, on a level playing field, American businesses and workers can successfully compete and win in the global economy.

Mr. President, I recognize the importance of new, international markets to the growth and prosperity of our economy. I do not oppose this pact because of what it proposes to do by removing trade barriers with Mexico and improving our access to Mexican markets. No, I will vote against NAFTA because of what it overlooks.

The North American Free-Trade Agreement provides strong protection for the rights of property and capital. In the agreement, the United states sought stringent provisions to protect a number of specific investor rights and secured formal changes in Mexican practices. NAFTA also ensures a guaranteed level of access for American companies to Government procurement contracts in Mexico. GAO estimates that opportunities for U.S. suppliers of goods and services with the Mexican state oil and electrical industries, PEMEX and CFE, are a $6 to $9 billion market.

I am convinced that NAFTA presents great opportunities for a wide array of American corporations. I commend our trade negotiators for their success in locking in these guaranteed access and investor security provisions. However, in contrast to these strong business and market access protections, NAFTA fails to provide comparable, secure, and enforceable protection for labor rights and U.S. environmental standards. NAFTA lacks any incentives encouraging the Mexican Government to

enforce its own labor laws, to respect labor and human rights. This is why I must vote against this agreement.

Mr. President, I have reviewed all the studies which forecast a limited positive overall impact on the U.S. economy with slight job losses or gains. I am concerned that the combination of strong investor and capital protections, combined with the weak labor side agreement, will exacerbate American job losses and suppress American wages. I am not referring to the low-skilled, low-wage jobs which some studies predict we will exchange for better-paying, skilled positions. My concern is for the skilled manufacturing jobs that already exist in the United States.

During the debate on Thursday night, my friend, the senior Senator from Maryland [Mr. SARBANES], laid out a detailed argument about how strong investor protections and weak labor safeguards could depress wages and displace jobs for American workers. We are all familiar by now with the Roper Poll conducted for the Wall Street Journal which surveyed American business executives. Forty percent of the executives polled said they would likely shift some production to Mexico if NAFTA should pass. Almost a quarter surveyed admitted that they would use NAFTA as a lever during bargaining to exact concessions and hold the line on wages. The Senator from Maryland is correct in emphasizing that we should be focusing on the fact that the Mexican work force represents 30 percent of the United States work force, not the GDP comparison between our two countries. The ability of the Mexican Government to suppress labor rights and ignore it's own labor, safety, and environmental laws serves to keep wages low—much lower that the true level of worker skill and productivity—could have a tremendous impact upon our economy and the livelihood of thousands of American communities.

A recent commentary in Business Week also speaks to the possibility of substantial United States job losses if investment dollars, both domestic and foreign, are shifted to Mexico. Mr. Aaron Bernstein, author of the article, points out that all of the econometric projections fail to consider the implications of a shift in investment from the United States to Mexico. He concludes that significant capital movement to Mexico could eliminate the forecast job gains from increased trade. Further a shift of $2.5 billion in new investment to Mexico would lose 375,000 United States jobs over 5 years.

Mr. President, this agreement with Mexico has significance beyond the specific trade and investment issues we are currently debating. NAFTA is intended to serve as a cornerstone for future trade agreements with Chile, Argentina, and other Latin American nations, perhaps, eventually expanding to encompass the Pacific rim. If NAFTA is to become the beacon for other nations to join us in free trade, we must make certain that the precedent we set here today reflects our great Nation's cherished ideals, values, and commitments. I identify these as the following: elimination of barriers and opening of markets, promotion of respect for human rights and democratic values, assurances for sound environmental stewardship, and increased opportunities and prosperity for working families.

Mr. President, I have come to the conclusion that NAFTA fails to meet these standards. While I will vote against this agreement, I also promise to work with President Clinton to strengthen our economy, create good jobs, and increase prosperity for all Americans. I look forward to working with him to ensure that we provide the worker retraining, better educational opportunities, and affordable health care that our American working men and women rightly deserve. I have faith in the President's promise to guard against any exploitation of the agreement that will be detrimental to U.S. workers and our economy at-large, and I intend to join him in maintaining the strictest vigilance in that regard.

Mr. WOFFORD. Mr. President, today I will vote against the North America Free-Trade Agreement. Two years ago, when President Bush sought fast track authority for NAFTA, I voted against it. I believed then, as I do now, that this trade agreement would mean that Pennsylvania jobs would be on a fast track to Mexico, and further lower our workers standard of living.

Not much has really changed. NAFTA was the wrong agreement as negotiated by the Bush administration. And I am convinced that it is the wrong agreement now, even with the side agreements added by the current administration in order to try to remedy NAFTA's defeats. I am convinced it is still not a good agreement.

Let me quote a recent Russell Baker column:

> * * * there's something cruel, offensive, and faintly dishonest [in the NAFTA-backers'] argument that any pain felt by the working classes will be only a "short-run" experience. The argument comes easily to people with the financial security required to live in the "long run." Corporate America and the Washington establishment, both ardent for this agreement, consist of people who can afford to wait for the year of the Jubilee.
>
> For working stiffs, life is lived in the "short run." The rent is due at the end of the month, the grocery money every Friday. Politicians, tycoons, and media stars exhorting such people to ponder the comforts to come in the "long run" can only sound like hypocrites or visitors from another planet.

Immediate job loss is my first concern about NAFTA, but there is more. This agreement will force a loss in workers standard of living. Because for many workers, this agreement will give companies new leverage to drive their wages down in order to meet low wage competition from Mexico and to forestall companies from moving to Mexico.

I support expanding international trade—trade that translates into a higher standard of living and greater economic opportunity. But trade agreements must raise the standard of living, not lower them. We have an example of a positive trade agreement already, the European Common Market and the careful way it integrated Spain and Portugal into the community of democratic European countries.

By contrast, this NAFTA will not do enough to eliminate artificially low wages in Mexico. And it does not do enough to ensure that the benefits of freer trade will translate into higher living standards for those here at home and in Mexico.

And it does nothing for those who stand to lose the most. Are NAFTA's corporate supporters committed to helping workers adjust to the new economic rules? Will there on the Republican side of the aisle who gave so many votes to NAFTA now support the kind of comprehensive worker assistance and training program that must go alongside such a trade agreement? I hope so.

There are those that say that if you are against NAFTA, you are running away from the competition and hiding from the new world order. They say it will weaken our hand in negotiating agreements with Asia and Europe.

I do not think so. The last thing I want is the United States to miss opportunities to improve economic opportunities here at home or to shrink from our responsibilities abroad. I believe the strong concern for American workers shown by the opponents of NAFTA will be a signal to other countries to take more seriously U.S. proposals to make new trade agreements fair.

We could have done better than this NAFTA. But now we must all hope that the gains foreseen by the agreement's proponents will be forthcoming.

Now is also the time to move forward and on to other battles. I have written President Clinton to congratulate him on his victory and to call on him to show the same kind of leadership that led to NAFTA's approval in pressing for a comprehensive program of adjustment assistance for families and communities, a successful completion of the GATT negotiations, extending unemployment benefits and health care reform.

Mr. President, I ask unanimous consent that the full text of this letter to President Clinton appear following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, November 18, 1993.*

President WILLIAM J. CLINTON,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: Congratulations on your victory in the House of Representatives last night which appears will soon be duplicated in the Senate, but without my vote. My own opposition to this North American Free Trade Agreement will be recorded when it comes before the Senate. But now we must all hope that the long-term gains for our economy which you foresee will outweigh the pain it will bring to many working families in Pennsylvania and other states. And we must work together to deal with the loss of jobs and the downward pressure on wages that will be part of the price paid for free trade with Mexico.

When President Bush sought fast track negotiating authority for the North American Free Trade Agreement I voted against it—because I did not think we should be saddled with an agreement that put American jobs at such risk. I wanted to make sure that any agreement reached adequately protected the interests of the working people of both the United States and of Mexico. And I wanted a new administration to have a chance to start afresh in shaping a common market approach in which trade would be on fair terms.

I will vote against NAFTA in the Senate because, among other reasons, I do not think the side agreements on the environment and labor standards are strong enough to force the Mexican government to bring about the changes in policies and practices required. But once NAFTA goes into effect those side agreements on labor standards and the environment must be vigorously enforced and, I hope, strengthened. I look to your leadership to do so. Mexico will hold a great competitive advantage until its labor and environmental standards are brought up to a level with our own.

Then we must respond with a sense of urgency to those who lose their jobs when companies shift to lower wage operations in Mexico. For thousands of Pennsylvanians, the pain from NAFTA is not likely to be "short-term." In the present state of our economy, the loss of a job usually means a long and difficult transition. And for workers who feel the pressure of being asked to take lower wages—or who make other concessions in order to compete with Mexican products and forestall their employer from moving to Mexico—this pain will be recurring.

Beyond the full enforcement of labor and environmental side agreements which will help both American and Mexican workers, there are several vital initiatives needed for the sake of American families and communities. They reflect your stated commitment to "putting people first."

The first urgent need is to develop comprehensive dislocated worker assistance. The current transitional aid proposal for workers hurt by NAFTA is inadequate. You have promised a comprehensive trade adjustment assistance program that includes job training, health care benefits and income supports, and assistance to communities to create jobs. But many of NAFTA's supporters in Congress have in the past been unwilling to support such investments in American workers and communities. We will need all your persuasive skills to bring these supporters to the legislative table.

Those who may benefit from NAFTA have a moral obligation to support aid for those who will be burdened by it. That aid should include far greater incentives for corporations to fulfill their responsibility, not only to current shareholders, but to longtime employees, their families and communities.

Second, we must negotiate a successful conclusion to the General Agreement on Tariffs and Trade. GATT is potentially of far greater economic importance to the people of Pennsylvania and the U.S. as a whole than our trade relations with Mexico. The current draft agreement for GATT does not sufficiently open overseas markets to American goods. It does not compel other nations to adequately reduce their agricultural subsidies and import barriers. And it threatens American laws against unfair trade practices. I hope the size and strength of the opposition to NAFTA will strengthen your hand in negotiating a GATT that remedies these problems and expands the benefits of world trade for American workers and companies.

Third, I urge you once again to call on Congress to extend unemployment compensation benefits prior to its recess. You sought such an extension earlier this autumn and the need remains great, both in Pennsylvania and across the country. It would be unacceptable for Congress not to pass assistance which, for many families, remains critical to paying the mortgage and putting food on the table.

Fourth, and of overriding importance to the health of our economy and of our people, we must win the fight for national health care reform. As you have said, health care reform is necessary to give Americans the confidence to change. And for those who lose their jobs, reform that guarantees continued health coverage is essential.

You have my good wishes for your meeting with the leaders of Asia and my pledge to work with you to achieve these goals.

Sincerely,

HARRIS WOFFORD.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that a statement concerning NAFTA by former Peace Corps volunteers be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY FORMER PEACE CORPS VOLUNTEERS AGAINST NAFTA

Having lived in Latin American or other less developed regions of the world as Peace Corps Volunteers, we are (with friends or neighbors also signing) concerned about how the North American Free Trade Agreement (NAFTA) would affect people north and south of the U.S./Mexico border.

We doubt the claim made by some that NAFTA will help Mexico be more stable and prosperous. Indeed, a trait common to poor, unstable nations is that their wealthy elites are more active in export/import trading than in developing the internal markets and human resources of their own nations.

We therefore appeal to Congress to: (1) reject NAFTA; and (2) examine whether our nation's thirst for foreign markets and resources is due to our overlooking needs and resources of our own people, leading to the growing income disparities here.

Reich, Orianne, Alaska (Wasilia).
Hopman, Clarence,[1] Arkansas (Dumas).
Rose, Steve, California (Costa Mesa).
Easterly, John, California (Niadera).
Schwind, Carolyn, California (San Diego).
McGraw, Bruce, California (San Diego).
Kennedy, Bill, California (San Francisco).
Alexander, Bill, California (San Luis Obispo).
Kemp, Suzanne, California (Santa Rosa).
Rosales, Roduska, California (Sebastopol).
Roberto, Jacquelyn, California (South Pasadena).
Kent, Jon[1], Colorado (Denver).
Cruz, Shelly Horsley, Connecticut (New Haven).
Kis, Cynthia & David, Florida (Naples).
Boggs, Paulette[1], Florida (Prince Charles).
Gladden, Jennifer, Florida (Prince Charles).
Poister, Molly R., Georgia (Roswell).
Halpern, Pat, Hawaii (Hilo).
Moorman, Dennis, Illinois (Chicago).
Feldmeier, Russell, Illinois (Chicago).
Boyd, Lucinda, Illinois (Chicago).
Inks, Jeff, Indiana (Carmel).
Trembley, Stephen, Kansas (Arlington).
Nagengast, Dan, Kansas (Auburn).
O'Connor, Frances, Maryland (Baltimore).
Hickey, Julia, Maryland (Baltimore).
Conn, Del, Maryland, (Bethesda).
Caldwell, Michael,[1] Maryland (Bowie).
Harris, Narva, Maryland (Germantown).
Lucas, J.D., Maryland, (Glen Burnie).
Beckwith, Frank,[1] Maryland (Hagerstown).
Zellem, Marsha, Maryland (Rockville).
Yang, Helen,[1] Maryland (Rockville).
Dain, William, Mass. (Newtonville).
Grossman, Richard, Mass. (Provincetown).
MacArthur, Mary, Mass. (Somerville).
Green, Ron, Massachusetts (Bedford).
Kieltyka, David, Michigan (Hemingway).
Blackburn, Joe, Missouri (Concordia).
Walton, Roy,[1] Missouri (Montgomery City).
King, Ed,[1] Missouri (Princeton).
Diechman, Don, Missouri (Wellsville).
Rosario, Angel, Montana (Eureka).
Rosario, Lynne, Montana (Eureka).
Quinn, Clover, Montana (Hamilton).
Schaefer, Ed,[1] Nebraska (Bellevue).
Furlong, Beth, Nebraska (Omaha).
Van Atta, Mike,[1] New Jersey (Chatham).
Caruso, Fred,[1] New Jersey (Columbia).
Koch, Fred,[1] New Jersey (Morganville).
Henry, Ed, New Jersey (South Orange).
Nylan, Henry,[1] New York, (Brooklyn).
Saul, J.,[1] New York (Lynbrook).
Gray, Ed, New York (St. Johnsville).
Shand, Hope,[1] North Carolina (Chapel Hill).
Ehrman, Cindy,[1] North Carolina (Chapel Hill).
Christman, Carolyn,[1] North Carolina (Chapel Hill).
Clouse, Mary, North Carolina (Moncure).
Bixby, Don,[1] North Carolina (Pittsboro).
Zaumsell, Kathy, North Carolina (Pittsboro).
Speas, Richard, North Carolina (Rural Hall).
Holloway, Brenda, North Carolina (Winston-Salem).
Barone, Rev. Alan D., Ohio (Dayton).
Brock, Madonna, Ohio (Goshen).
Sheely, Phillip,[1] Pennsylvania (Abbottstown).
Sheely, Norma, Pennsylvania (Abbottstown).
Currente, Peter,[1] Pennsylvania (Albrightsville).
Bosch, Edward J., Pennsylvania (Allentown).
Bronot, Ed,[1] Pennsylvania (Dove).
Bargo, Conrad H., Pennsylvania (East Stroudsburgh).
Elnicki, Anna, Pennsylvania (Fallsington).
Doherty, Jim, Pennsylvania (Havertown).
Kapner, Daniel, Pennsylvania (Lancaster).
Bishop, Lee,[1] Pennsylvania (Levittown).
Bishop, Edie, Pennsylvania (Levittown).
McGrath, Joseph A., Pennsylvania (Monroeville).
Choi, Monica, Pennsylvania (Narberth).

Morrow, Jeanne S., Pennsylvania (New Bloomfield).
McGarvey, Paul, Pennsylvania (North Wales).
McCleary, Keith, Pennsylvania (Red Lion).
Llodoc, Letitia M., Pennsylvania (Stroudsburg).
Havlik, Patricia, Pennsylvania (Womelsdorf).
Fraser, Robert,[1] Pennsylvania (Yiadon).
Riggon, Vicki,[1] Tennessee (Nashville).
Hickerson, Larry,[1] Tennessee (Nashville).
Oliveri, Joseph, Texas (Austin).
Fomey, Joe, Texas (North Richland Hills).
Oakley, Catherine,[1] Texas (San Antonio).
Mann, Grant,[1] Utah (Salt Lake City).
Ross, Lew,[1] Utah (Salt Lake City).
Maurer, Paul,[1] Virginia (Arlington).
Clausen, Donald, Virginia (Burke).
Clausen, Pat, Virginia (Burke).
Bryan, Alonzo, Virginia (Falls Church).
Hoskins, Mark,[1] Virginia (Falls Church).
Joannides, Peter,[1] Virginia (McLean).
Leahy, Vic, Virginia (Springfield).
Ridlington, John, Washington (Kettle Falls).
Bates, Dale M., Washington (Nine Mile Falls).
Bates, Suzan, Washington (Nine Mile Falls).
Heidlebaugh, Tom, Washington (Tacoma).
Allen, Marsha, Washington, D.C.
Leach, Maryann, Washington, D.C.
Wolf, Steve, Washington, D.C.
Meadows, Connie,[1] West Virginia (Huntington).
Hackenberger, Steven, Wisconsin (Janesville).
Cutsinger, Loren, Wisconsin (Janesville).
Post, Arthur, Wisconsin (Mr. Horeb).
Rhyner, Vicki, Wisconsin (Wausau).

[1]Experience is other than Peace Corps, most are Viet Nam veterans.

Mr. HOLLINGS. Mr. President, this attempt to pass NAFTA has been an unprecedented effort to twist facts and distort the truth. Yesterday, the Commerce Department announced new trade figures. A funny thing happened to our burgeoning trade surplus with Mexico, it is disappearing. Last month we posted a $101.1 million trade deficit with Mexico. Last year we did have a $5.4 billion surplus, this year that surplus has shrunk to $1.7 billion, a 60-percent decrease.

Mr. President, it is no surprise to this Senator that the trade surplus has diminished. Nora Lustig at the Brookings Institution predicted this in 1991.

The upsurge in imports is in part a response to the expansion of productive capacity in anticipation of Mexico's positive outlook * * * The Current large imbalance in the trade account may well be a one-time phenomenon in the sense that it is the result of the modernization of the productive plant that will soon render its fruits in the form of higher net exports.

The fact is that despite the propaganda disseminated by Mexico's high-paid lobbyists, Mexico's economy is growing at a paltry 1.1 percent, hardly a fast-growing economy.

As Mark Twain said, "the truth is so precious it should be used sparingly." In the NAFTA debate, it was hardly used at all. The trade figures released today prove this.

Mr. LIEBERMAN. Mr. President, I rise in support of NAFTA.

NAFTA promises clear benefits for my home State of Connecticut, for this country, and for the future of the global trading system. I would not vote for NAFTA otherwise.

It is no secret that the downturn in the economy has hit my State especially hard. The economy—and more specifically the need to keep and create good jobs—is of paramount concern to the people of Connecticut.

I believe that one way to keep and create these jobs is to capitalize on Connecticut's strength as a savvy and effective exporter. Removing the biggest barrier we face in trying to sell our goods and services in Mexico—that is lowering the tariffs we pay in order to get our goods into Mexico—will mean more of our goods and services going to Mexico. It's that simple.

Indeed over the 5-year period of 1987–92, Mexico took steps toward opening their markets to our goods. Over that time Connecticut's exports to Mexico grew 142 percent—making Mexico Connecticut's seventh largest export market. At the same time, the United States went from running a trade deficit to running a trade surplus with Mexico. What that translates to in concrete terms is that in 1992 the people of Mexico bought $40.6 billion of our goods and services—$5.4 billion more than we bought from them.

Let me give you another illustration of how Mexico takes to heart the urging to "Buy American." The average Mexican spends $380 per year on our goods and services. The average Japanese, who earns 10 times as much, spends only $400. Of every dollar the Mexican people spend on imported products, 80 cents goes to the United States.

Connecticut, among the top five exporting States in the country, is in a wonderful position to benefit from the implementation of NAFTA. Sikorsky envisions the export of helicopters to be used by the Mexican oil industry. Connecticut orchard owners will no longer face a 20-percent tariff on apples being sent to the Mexican market. Pratt and Whitney hopes to export engines for Mexico's commercial airlines. Lego Systems expects increased sales to Mexico to translate into a 10-percent expansion of their workforce in Enfield. And Hartford, CT, the insurance capital of the world, will finally be able to break into the Mexican insurance market—a fact which will undoubtedly provide a big boost to their troubled bottom lines. In the areas of chemicals and computers—both important export markets for Connecticut—average Mexican tariffs are in the 10–20-percent range. When these tariffs are taken down to zero, we can expect substantial benefits.

I understand that there is a tremendous amount of concern that Mexico's lower wages will cause companies to shut down operations in the United States and move to Mexico. This is a concern that I can relate to because Connecticut is a relatively high-wage State that often faces the prospect of companies moving to lower wage States. However, a few facts argue against that sound of jobs moving to Mexico that we have heard so much about. The first is that wages, in and of themselves, do not determine where a company locates. It has been rightly argued that were this so, Haiti and Bangladesh would be economic powerhouses. If you need further evidence, just ask Keith Gibson with Quality Coils in Connecticut. He moved to Mexico 4 years ago to take advantage of cheap labor and returned to Stonington, CT, last April. For Mr. Gibson it came down to productivity—"I can hire one person in Connecticut for what three were doing in Juarez."

Again, I could not stand on this floor and vote for an agreement that I thought would hurt us. I have not dismissed lightly the views of people like John Olsen, with Connecticut's AFL–CIO, Phil Wheeler with the Connecticut's UAW, Andy Romegialli with Connecticut's Machinists or Steve Alger with Connecticut's Electrical Workers. They are people I respect, people whose opinions I value, people I consider to be my friends. However, on this issue, I can say only that we disagree and I hope they will understand our disagreement is over tactics, not goals. I believe NAFTA will protect and create jobs in Connecticut.

There is a tremendous amount of fear in Connecticut, and across this country, about our economic future. As Vice President GORE stated so eloquently last week, "This is a choice between the politics of fear and the politics of hope. It's a choice between the past and the future. This is a fork in the road. The whole world is watching."

I would also like to address President Clinton on the broader issues that I believe are involved in this NAFTA debate.

First, congratulations. The House vote was an impressive achievement. Two weeks ago, NAFTA's prospects were grim, and you and your CPR crew brought it back to life. Only the best in the Presidential business are able to achieve this kind of turnaround.

This accomplishment should also put to rest many of the complaints that have been made against you. Too often, we have heard that you have been indecisive and uncertain; your ability to take over this issue and rescue it puts that charge to rest. Too often, we have heard that you are to ready to compromise and delay, but there was no compromise or delay in this fight. This battle, perhaps more than any other act in your Presidency, has taught Congress about your resourcefulness and your advocacy.

Second, thank the Republicans. For the first time, on one of your most important initiatives, you put together a bipartisan alliance. We do not have a parliamentary government—we have a power-sharing arrangement between the parties. Your work with the Republicans on this legislation and the positive respect that emerged on both sides in this process presents an opportunity for you to build a bipartisan bridgehead. The best way for your health care initiative and other major programs to emerge is if you continue to build on the working relationships with the other side of the aisle that you have begun on NAFTA. There is an opening here; I urge you to build on it.

Third, one of the most important messages that the debate on this issue has brought home over the last several months is the depth of the anxiety most Americans feel about their economic future. They are right to feel this way. Since 1973, real incomes for all but the upper middle class have been in decline in this country. Too often in recent years, American companies have chosen to boost productivity through layoffs rather than more aggressive competition.

You understand these issues—I have seen ample evidence of that over the last year. I hope that your two major economic issues this year—reconciliation and NAFTA—will be followed up with a comprehensive economic strategy next year.

I encourage you to be bold next year. This economy is troubled and there is a tremendous amount of fear in this country that Congress does not have the courage to do something about that trouble. We need to cut the budget further and we need to consider how to leave more dollars in the pockets of the middle class and the job generators in this country. After the House vote on NAFTA, you announced you were going to send a job training bill to the Congress early next year. That's great. But job training is not a substitute for job creation. Let me urge you to assemble a broad and dramatic legislative package and get it up here early in 1994. You and your administration know all the pieces that must be included. They include trade promotion, reduction of export controls, promotion of manufacturing and technology programs, lower cost financing for growing firms, better technology transfer, better product commercialization from our massive Federal investments in basic research, and stronger support for R&D. Mr. President, no one bill will do, no single strategy will work in isolation; I ask you to open a battle on all these economic fronts.

Behind the scenes, deep in your bureaucracy, your agencies have been making real progress on this agenda, but the American people do not know that. Send us a package that tells us where you stand on these issues and builds legislative support for a tough agenda to recapture foreign markets, rebuild our manufacturing base, restore technology leadership.

In closing, Mr. President, I ask you to speak to the anxiety Americans have about their economic future by working with this Congress to develop a full economic agenda. A number of us in this body—from both sides of the aisle—are eager to help shape and implement that agenda.

Mr. DURENBERGER. Mr. President, there are many people who worked hard to achieve the NAFTA success, including the President and his Cabinet. To me, the one person who ranks at the top of the list is my former colleague, Congressman Bill Frenzel.

As you know, Bill has been serving the Clinton administration as Special Adviser for NAFTA, concentrating on Republican votes. When Bill was called by the President, he willingly accepted the task, and he dropped his other priorities to pursue a NAFTA win. He was so committed to the goal of passing NAFTA legislation that he chose to serve the President as a volunteer.

Bill did not have an enviable job in the House. The lobbying was intense, often brutal. Many Democrat leaders deserted their own President to oppose the NAFTA. Republicans, who resisted handing a victory to a President of the opposite party, were not easily convinced that they should be the ones to save the agreement. The target for Republican votes was 118, with 100 Democrats to complete the tally. At first both targets seemed impossible to meet.

It was not easy for Bill Frenzel, a long-time former member of the Ways and Means Committee's trade subcommittee, from my home State of Minnesota, to convince Republicans to support NAFTA. This was no longer a Bush initiative. There was more opposition to this agreement than any trade agreement faced previously. The public was starting to take an interest in NAFTA. It was hard for them to understand the complicated details in this lengthy agreement. It was hard to provide to Members of Congress the ammunition they needed to convince their constituents that this agreement was important when the prevailing view was that NAFTA was the cause of all evils.

Always a hard worker, Bill took the time to work with all 132 Republicans who voted for the NAFTA, many of which labored over what was a tough decision. He persisted in his round-the-clock mission and delivered 14 more votes than expected. That is the kind of achievement that may never be understood "outside the Beltway", but I want to publicly thank Bill Frenzel for the kind of success few ever predicted.

With Bill's leadership, 132 Republicans were able to look beyond tempting politics to cast a vote that would ensure the continued leadership of the United States in the international arena. Only 102 Democrats looked beyond this vote to understand how this would undermine their President's efforts to combat trade barriers and expand U.S. trade opportunities. There were 156 Democrats who chose to serve up a serious defeat for their own President that would have been devastating to an already weakened President.

I thank all of my colleagues in the House and the Senate who had the courage to vote for NAFTA despite extensive opposition. I especially thank my former colleague Bill Frenzel. To me he is the real hero of this debate.

Mr. CONRAD. Mr. President, this is a difficult vote for me. I support free trade and agreements that open markets to U.S. products. Mexico is a growing market for United States products and a gateway to the rest of Latin America. North Dakota's economy is centered around agriculture, and agriculture is extremely trade dependent. Trade agreements that eliminate trade-distorting export subsidies, open markets and create a level playing field are clearly in the interests of our agricultural producers because U.S. agriculture can compete with anyone in the world when the rules are fair.

Moreover, the world is shrinking and, as a result, the global economy is changing. Trillions of dollars in investments circle the globe every day, chasing the capital markets from Tokyo to Europe to Wall Street. Revolutions in telecommunications allow information to move throughout the world unimpeded and played a key role in the fall of communism. National boundaries are becoming less and less important in international commerce. These changes are not going to stop if this country tries to ignore them or turns its back on the world. As President Clinton has said, we need to compete, not retreat.

For all these reasons I strongly believe that we need to enter into a trade agreement with our neighbors to the south. We need to create a framework that defines the rules of the new global competition. These rules will determine not only who wins and who loses in this competition, but also what values are worth preserving amid this competition.

Unfortunately, the North American Free-Trade Agreement [NAFTA] we have before us today is not free trade and it is not fair trade. Instead, it establishes unfair rules for wheat and barley growers in my State, and it creates a playing field that is tilted against American workers. If our vote today were on a trade agreement that established free and fair trade with Mexico, I would enthusiastically support it. But that is not the choice we have before us.

EXAGGERATED RHETORIC

The NAFTA represents the first trade agreement ever reached among

countries with such different levels of economic, social and democratic development. NAFTA will have a profound influence on the future course of our economic development, not so much through its direct effects as through the signals it sends about our priorities, about how we will approach our economic future, and about who will win and who will lose from this approach. These are important questions and deserve careful consideration and debate.

That is why I find it so disappointing that, over the past several months, these important questions have been buried in an avalanche of demagoguery about the NAFTA. Listening to many supporters, one might think that passing NAFTA would solve all our economic problems and instantaneously move average working Americans into the higher paying jobs of the future. Listening to many opponents, one might think that passing NAFTA would cause all our manufacturing jobs to move to Mexico, destroy the Mexican and United States environments, and give away our sovereignty.

Of course, both these views are wrong. The NAFTA is neither economic salvation nor economic disaster. Some aspects of the NAFTA will be good for our country, and some will be bad; on most issues, the arguments for and against the NAFTA are closely balanced. Despite the many claims about how many jobs the NAFTA will create or cost and the many arguments on other issues, no one really knows what the future will hold—with or without the NAFTA. We do know that the Mexican economy is small enough that, whether the overall effect is positive or negative, it will likely be relatively small in comparison to our overall economic performance.

In addition to looking at the impact of the NAFTA on the country as a whole, I have spent a great deal of time considering its impact on North Dakota. Here again, the rhetoric of NAFTA supporters is not borne out by the facts. Wheat is the most important crop in North Dakota. Wheat growers hope that recent commitments from the administration will resolve the many problems created by the United States-Canada Free Trade Agreement [CFTA], but so far we have only vague promises and no action. Some other commodities anticipate very little gain from the NAFTA. Still others expect expanded trade opportunities in Mexico as a result of NAFTA based on projections by the administration and other NAFTA supporters. But because the Mexican market is small compared to our overall agricultural exports any impact on prices and incomes will likely be small; the estimates of price increases after 10 years are smaller than daily fluctuations on the commodity exchanges. Moreover, I am not convinced that the optimistic estimates of export gains will be borne out in practice, because I have seen previous optimistic promises on the impact of a trade agreement run into a bitter reality for North Dakota farmers.

LESSONS OF THE CANADIAN FREE TRADE AGREEMENT

Mr. President, I have heard rosy projections before, and they have made me very skeptical of promised benefits from a trade agreement. When the United States-Canada Free Trade Agreement came before the Congress in 1988, I was given promise after promise that the Canadian agreement would be good for North Dakota and that it could not possibly harm wheat producers in this country.

Mr. President, since the [CFTA] was implemented, Canadian wheat has flooded into the U.S. market. Imports of durum have increased from nothing in 1985-86 to 15 million bushels in each of the last 2 years. Imports of hard red spring wheat last year—a record 35 million bushels—were five times the average in the 5-year period prior to implementation of the CFTA. This has happened not because Canadian wheat farmers are more efficient or more competitive than U.S. producers, but because the CFTA put in place a system of unfair competition.

For example, the CFTA allows Canada to use transportation subsidies on wheat and barley shipments into the United States. And it does nothing to curb the secretive, anticompetitive pricing practices of the Canadian Wheat Board. I recognized the problems these flaws in the agreement could cause for North Dakota, and I sought assurances from the Reagan administration that these problems would be resolved. Unfortunately, these assurances have turned out to be worthless. We were told in the CFTA implementing legislation that the President would negotiate an end to eastbound Canadian rail subsidies. That hasn't happened. We were told that we retained the option to use section 22 of the Agricultural Adjustment Act to protect our farm programs. Section 22 requires the Secretary of Agriculture to advise the President whenever he has reasons to believe that imports are materially interfering with any program or operation of the Department, and further requires the President to take action if he agrees that there is reason for such belief. But the Bush administration refused to even consider initiating a section 22 case despite clear evidence of damage to the wheat program.

As if that were not enough, Mr. President, we learned earlier this year that in a secret agreement then-Trade Representative Clayton Yeutter had told the Canadians that the plain language of the agreement when it comes to selling into our market at below cost did not mean what it said. The agreement says that Canada cannot sell into the United States at less than the full acquisition price of the grain. But, instead of the full acquisition price of Canadian grain, Mr. Yeutter told the Canadians that we would only count part of the price. We wouldn't count the transportation subsidy that gives their producers a 50 cents per bushel advantage and we wouldn't count the interim and final payments of the Canadian Wheat Board that typically amount to at least 20 percent of the total payments the Canadian Wheat Board makes to producers.

The resulting imports have depressed prices and cost U.S. producers hundreds of millions of dollars in lost income. And because the types of wheat produced in Canada compete most directly with those grown in North Dakota, my State has borne the brunt of this unfair competition. This has been a bitter lesson for North Dakotans. It has poisoned the well for them—and for me—when it comes to so-called free-trade agreements. When I first came to the Senate, I believed strongly that free trade could benefit our country in general and agriculture in particular because of its dependence on export sales. I still believe this. However, I have learned that when it comes to so-called free-trade agreements, the devil is in the details. And in the CFTA, those details have cost North Dakota hundreds of millions of dollars. This causes many in agriculture, and many who represent agriculture in the Congress, to be very skeptical when we examine so-called trade agreements and the gains we are told they will bring.

IMPACT OF THE NAFTA ON NORTH DAKOTA

My experiences with the CFTA necessarily color my approach to the NAFTA, especially since NAFTA incorporates these flawed provisions of the CFTA. As it was negotiated by the Bush administration, there was no question in my mind that the NAFTA would have been bad for North Dakota. Not only did it incorporate the flawed CFTA provisions on trade in grain, it extended them to Mexico and made them worse by allowing Canada to use westbound transportation subsidies—prohibited in the CFTA for shipments into the United States—for shipments into Mexico. It contained a loophole that would have permitted Mexico, which is currently a net importer of sugar, to ship unlimited amounts of sugar to the United States if it became a net exporter by converting its beverage industry from sugar to high fructose corn sweetener. It provided small minimum quotas for exports of potatoes and dry edible beans to Mexico without providing any assurances that additional exports would compete on an equal footing with products from other countries. It had no mechanism for ensuring that Mexico would not gain a competitive advantage over farmers and firms in this country by turning a blind eye to flagrant, routine

violations of its labor and environmental laws.

Since that time, however, the Clinton administration has addressed many of these issues. It reached agreement with Mexico to close the loophole on sugar. Now, Mexico will not be able to become a net surplus producer of sugar by converting its beverage industry from consumption of sugar to consumption of high fructose corn sweetener. This will protect the $1.5 billion sugar industry in the Red River Valley of North Dakota and Minnesota from what could have been a devastating influx of cheap Mexican sugar.

The administration has also included in its Statement of Administrative Action language addressing two concerns that I raised in the Senate Agriculture Committee. One provision specifies that the administration will seek immediate negotiations with Mexico to accelerate the reduction in Mexican tariffs on dry edible beans and potatoes. The second provision addresses the question of how Mexico will treat United States commodities subject to a tariff rate quota when it chooses to import more of these commodities than the required minimum. Historically, United States producers of many of these commodities have benefited from increased export opportunities to Mexico when Mexican production was less than Mexican demand. Producers in my State were very concerned that, in this situation under the NAFTA, Mexico might turn to suppliers outside the United States to fill its domestic production shortfall. The Statement of Administrative Action commits the administration to immediate consultations with Mexico to ensure that, in this situation, United States producers will have access no less favorable than that provided to any other supplier. If these negotiations are successful, they will provide increased export opportunities for these two commodities. But I cannot know whether, once the agreement is implemented, the administration will follow through on these issues.

Finally, on wheat, the administration has taken several steps toward addressing the problems with the CFTA that I have already discussed. The NAFTA Implementation Act contains a provision establishing end use certificates for Canadian wheat and barley. Unfortunately, I am very concerned that the version of end use certificates included by the administration lacks the substance of the legislation I have championed. End use certificates are intended to track Canadian grain in this country to ensure that it does not illegally enter our subsidized export programs. They are intended to be equivalent to the end user certificates Canada requires on United States grains.

The version included by the administration, however, reflects a compromise version of this legislation reached during action on the Omnibus Budget Reconciliation Act of 1993 earlier this year. During negotiation of that compromise, many of the details regarding implementation of end use certificates were stripped from the statutory language and instead included in the Statement of Managers. However, the administration has not included the language from the Statement of Managers in its Statement of Administrative Action. Consequently, there is no guarantee that the end use certificates will operate as intended.

In addition, the Department of Agriculture has studied the impact of Canadian wheat imports and determined that Canadian imports are costing the U.S. taxpayer over $600 million in additional wheat program outlays. Consequently, the Secretary has advised the President that he has reason to believe that wheat imports are materially interfering with our wheat program and recommended that he proceed with a section 22 investigation. Earlier this week, the President wrote me to promise that he would go forward with the section 22 case in 60 days unless Canada took action that made a section 22 investigation unnecessary. But the President's letter contains no criteria to suggest what Canadian actions would be considered sufficient for the President to halt the section 22 action.

All these assurances, if implemented would represent significant improvements in the NAFTA negotiated by the Bush administration. If they are implemented, they would remove the major sources of concern to producers in North Dakota. Under these circumstances, the gains that are projected for corn, soybean, sunflower, beef and pork producers could make NAFTA a new winner for North Dakota.

However, all these potential benefits for North Dakota agriculture would be negated if the administration does not fully implement the assurances it has given me and my colleagues. Moreover, because the Mexican market is small relative to our overall agricultural exports, any positive impact from increased exports will also be small. Thus, whether or not NAFTA is good for North Dakota depends very heavily on whether the assurances we have been given will turn into concrete results.

IMPACT ON THE COUNTRY

When I turn to the country as a whole, the central issue is jobs. How will NAFTA affect the working men and women of this country?

Here again, I am not convinced that NAFTA will provide net benefits. Unfortunately, the NAFTA was negotiated primarily with the interests of business and investors in mind and not those of average working Americans. That is why there are specific protections for direct and indirect investment in Mexico in the NAFTA while labor issues are relegated to a supplemental agreement. The benefits to working Americans, if any, will be spinoffs from increased business opportunities in Mexico.

There are two factors that make it difficult to determine the overall impact on American workers. First, as I said earlier, we cannot know how many of the effects that opponents and supporters believe will result from the NAFTA would also happen without the NAFTA. Second, the two main effects that are expected from NAFTA have diametrically opposed effects on jobs. Improving protection for investors in Mexico will accelerate the movement of plants and jobs to Mexico. Lowering Mexican tariffs will increase our exports to Mexico and create jobs in this country.

I am very concerned about the implications of combining our economy with one in which manufacturing wages average only one seventh of average wages in the United States. Supporters argue that any company that would move to Mexico under NAFTA could move to Mexico today. They are right, but they are telling only half the story. Today there are many reasons why American companies might think twice before moving a plant to Mexico. The NAFTA eliminates these impediments to investment in Mexico. It provides for intellectual property protection. It guarantees the right to repatriate profits. It protects against expropriation. Quite simply, it lowers the risk of investing in Mexico and changes the climate by putting a "Good Housekeeping" seal of approval on Mexico. NAFTA tells business that it's perfectly acceptable to eliminate American jobs and relocate to Mexico to take advantage of low wages there.

Not surprisingly, a Wall Street journal poll found that more than half of U.S. companies with annual sales of over $1 billion are either very likely or somewhat likely to shift some production to Mexico in the next few years if the NAFTA passes. And it explains why a Congressional Budget Office study of the effects of NAFTA concluded that the major benefit of NAFTA to Mexico would be increased investment in Mexico.

In some respects, Mr. President, passing NAFTA is equivalent to adding 50 million Mexican workers to compete with American workers for scarce manufacturing jobs and low-wage service jobs. These 50 million Mexican workers earn, on average, only $2.35 per hour. Yet, with American equipment and some training at a minimum wage of just 58 cents an hour, they can be almost as productive as U.S. workers. The impact on average workers in this country will be negative. Some American companies will take advantage of the investment protections in the

NAFTA to relocate jobs to Mexico and eliminate jobs in this country. In addition, the threat of relocation will put downward pressure on those jobs that remain in this country.

But we cannot know how much difference NAFTA will really make to plant location decisions. How many of those CEO's polled by the Wall Street Journal would have been likely to shift production to Mexico without NAFTA? As NAFTA supporters are fond of pointing out, American factories are moving to Mexico, Europe and Asia without NAFTA. In the future, if NAFTA passes, we will be unable to look back and tell whether a factory that moved to Mexico would have done in the absence of NAFTA. We will not know if that factory would have moved to Mexico even without NAFTA. And, if it would not have, we will not know whether that factory would have stayed in the United States or moved to some other, lower wage location. These decisions are not based on labor costs alone. Labor costs are important, but managers must also take into account available infrastructure, transportation, and many other costs of doing business.

On the other side of the ledger, NAFTA will almost certainly result in increased exports to Mexico that will support and create jobs in this country. Currently, Mexico maintains high tariffs on most United States goods and outright restrictions on others. NAFTA eliminates these tariffs and barriers, and will make American goods available to Mexican consumers. Over the past 5 years, as Mexico reduced its tariffs on our goods, United States exports increased dramatically. NAFTA will continue this trend.

Opponents of NAFTA point out that many of these exports are U-turn exports—equipment and components that will be used to assemble final products for re-export to the United States. They are right; at $2.35 an hour, the average Mexican worker does not earn enough to buy many consumer goods. But the Mexican middle class is growing and exports of consumer goods comprise the fastest growing portion of United States exports to Mexico. Moreover, even U-turn exports support jobs in this country. If United States firms were not supplying assembly plants in Mexico, we have no guarantee that they would be supplying plants in this country. It is equally likely that instead Japanese firms would be supplying assembly plants elsewhere in Asia. The jobs maintained and created by exports spurred by the NAFTA will tend to offset the effects of jobs lost to Mexico from plant relocations.

No one knows what the net impact of these two opposite effects will be. But almost everyone who has studied the issue has concluded that the impact will be very small. Most predict net job gains or job losses in the range of tens of thousands per year or much less. These numbers pale in comparison with the hundreds of thousands of jobs that are routinely created and lost every month. The aggregate effect on our economy is likely to be small.

However, the impact on individuals of the change and dislocation caused by NAFTA will be immense. Unfortunately, Mr. President, we do not yet have in this country an effective system of lifelong learning and job training that gives our workers the skills necessary to move quickly or easily from one profession to another. And the experience of the past decade suggest that those workers who lose their jobs as a result of the NAFTA, even with the worker retraining package included in this legislation, will face long stretches of unemployment and lower wages when they finally find new jobs. It is not at all clear to me that the small net gains that are expected from NAFTA are worth the large costs to individual workers in this country.

NAFTA COULD HAVE BEEN BETTER

Many of these concerns could have been alleviated by negotiating a NAFTA that would raise wages and improve working conditions in Mexico. The failure of NAFTA to ensure that Mexican wages rise to a level commensurate with Mexican productivity and its standard of living hurts United States workers in two ways. First, it makes Mexican labor relatively more attractive than United States workers by maintaining a wage differential larger than that justified by productivity differences. Second, it tends to keep Mexican workers too poor to export enough American-made products to offset the jobs lost to relocation. This failure also stands in stark contrast, as many others have pointed out, to the detailed protections that were negotiated for investors in Mexico.

I will vote against NAFTA because I cannot in good conscience tell hard-working farmers in North Dakota that I have solved the Canadian trade problems that have cost them hundreds of millions of dollars when the last administration failed to implement its commitments and there has not yet been any real action to back up the assurances of the current administration. I hope that this action will be forthcoming. I will continue to work with the administration to ensure that it is. But we are not there yet. For these reasons, I cannot vote for this NAFTA.

Mr. BYRD. Mr. President, I have listened to the arguments, and I have decided to vote against the North American Free-Trade Agreement. I arrived at this decision not out of fear that the United States cannot compete with Mexico, but because this agreement fails to lay the proper foundation for fair competition. In fact, until the United States and Mexico make significant changes in our respective economies, it will be difficult to construct any trade agreement that will serve United States interests.

This does not mean that we should abandon the goal of liberalizing trade between our countries. On the contrary, lowering barriers and increasing opportunities for trade and investment should, and hopefully will continue. Increased United States investment in Mexico will help that country continue the arduous task of economic restructuring and will ultimately result in higher wages and a higher standard of living for the Mexican people. But this economic development should be precondition for, not a goal of, a free trade regime. Until the Mexican economy has shed its legacy of tight authoritarian control, and until wages and employment there have risen to a level where Mexican workers can achieve a decent standard of living, free trade with Mexico will automatically hurt American workers. Opening our economy to goods produced by workers making less than $2 an hour will undoubtedly cost U.S. jobs, particularly low skill jobs in labor-intensive industries, and hurt small businesses within our borders.

For our part, the United States needs to focus on job creation for American workers before we embark on programs to create jobs in other countries. I have heard the proponents of this agreement tout increases in United States exports that will offset any increased imports from Mexico. What they fail to mention is that the exports will be primarily in highly mechanized, capital-intensive industries, while the imports from Mexico will consist of goods made with labor-intensive production. This disparity is exactly the reason that big business in America favors the agreement and labor organizations oppose it.

The situation in West Virginia provides a good example of this dichotomy. The large chemical companies with their heavily mechanized, capital-intensive production will see increased exports to Mexico, but this will not necessarily result in much increased employment in West Virginia because of the nature of the production process. On the other hand, the glassware and chinaware producers in West Virginia, a labor-intensive industry, will lose out and will be forced to cut employment, wages, or both. Under NAFTA, the owners of American capital—big business—win, and the owners of American labor—the individual workers—lose. Any marginal benefits of NAFTA for U.S. exports are far outweighed by the damage to the U.S. labor market. We do not help our economy by hurting our workers and our small manufacturers.

The U.S. economy has just weathered a very painful recession with huge job losses, and the economic recovery remains fragile. Most companies that have laid off workers have made it clear that they will not be rehired.

Those jobs have disappeared forever, and such U.S. corporate downsizing continues. For America to compete internationally, which we must do, Government and industry should develop a strategy for creating good jobs for Americans before we enter into an agreement that will place additional strains on the labor force and on certain sectors of our economy.

In this regard, I find it regrettable that the Senate failed to pass President Clinton's stimulus package early this year. Some of that package focused on short-term programs, but much of the package would have supported increased investment in infrastructure and research and development in critical areas. Initiatives such as these are exactly what this country needs in order to pave the way for agreements such as NAFTA. We must find ways to generate secure, skilled jobs for U.S. workers that have been, and will continue to be, displaced in the rapidly changing world marketplace.

As I have said, I do not fear free and open competition with Mexico, as long as we take the steps necessary to prepare ourselves for that competition. Liberalized world trade has provided much of the impetus for the post-World War II economic growth, and I hope that the United States can negotiate future agreements that will continue that trend. But we cannot pursue free trade at any cost, and particularly not if the cost is higher unemployment for American workers. Unfortunately, NAFTA does not address the fundamental differences between the economies of the United States and Mexico. I fear that forcing the premature integration of these two economies could have a negative effect on the United States. Since I assure that this body will vote to pass NAFTA, I can only hope that those negative effects are minimal and short-term. And I hope that this body and the President will take genuine steps to enhance our international competitiveness by creating high-wage jobs in the United States.

Mr. SMITH. Mr. President, I have spent a great deal of time agonizing over which side of the fence I was going to be on in this issue of NAFTA. I have done what probably is unusual around here. I took the time to read through 1,200 pages of this document. I read the side agreements.

I spent time talking personally to a number of people on both sides of the issue. I spoke to Ross Perot personally about it. I spoke to many members of the United We Stand organization in my State. I spoke to the labor unions representing the AFL-CIO people in New Hampshire. I spoke to many people on both sides of the fence nationally who were lobbying for or against the agreement.

I had a briefing from the Vice President of the United States, AL GORE, and the Secretary of the Treasury, Lloyd Bentsen. I have had briefings from Mickey Kantor. I read countless editorial writings on both sides, from Pat Buchanan to the Wall Street Journal and the New York Times, of positions in favor.

So it has been a long ordeal for me. It has taken me months to make up my mind.

Today, reluctantly, I come down in opposition to this North American Free-Trade Agreement.

Mr. President, I rise today as a supporter of free trade. In my 9 years in Congress, I have consistently opposed protectionist measures designed to erect walls around the United States of America. I have been a supporter of the fast-track procedure—as a matter of fact, I voted for the fast track for this free-trade agreement—that allows for our President to negotiate trade agreements on equal footing with his international counterparts. I supported the United States-Canada Free-Trade Agreement in 1989 that removed the tariff fence along our northern border.

Mr. President, I think it is important to dispel the notion that "free trade" is a dirty phrase. Over the past 2 years, more than 80 percent of the growth in the U.S. Economy has been sustained by exports. In 1991, increased exports of more than $30 billion created 600,000 new jobs in the United States. In fact, the Department of Commerce reports that every additional $1 billion of exports crates 22,000 new jobs in America.

New Hampshire, in particular, has benefited from increased access to foreign markets. Trade with Canada and Mexico supported over 13,000 manufacturing jobs in our State in 1991. In addition, exports to our North American trading partners have grown significantly over the past 5 years and now account for nearly one-third of total New Hampshire exports. With the accelerating growth of international trade and commerce, it is critical that the United States open new markets around the world. To achieve open markets in North America, we need to support a clearly defined, responsible, lucid agreement which calls for an organized, systematic reduction—and eventual elimination—of tariffs between the United States, Mexico, and Canada. Such a document must also leave the decisions on health, labor, safety, and environmental standards up to the individual nations themselves. And this agreement should create opportunities for businesses—not impose additional regulations upon them.

Well, regretfully, Mr. President, the NAFTA we are asked to support today falls far short of the mark. This NAFTA is very different from the NAFTA of 1 year ago, or even 1 week ago. This ever-changing, fluid document is very different from the concept of free trade and business expansion which I support. When I think of free trade, I do not think of the 1,200 pages of complex rules, regulations, and specifications on who can trade what, where, when, how, and how much—as embodied in this NAFTA. The constant changes, lack of consensus on both sides, and invasion of the sovereignty of the United States make this NAFTA a bureaucratic nightmare. This NAFTA—and especially its side agreements—go far beyond the concept of free trade. Actually they impede free trade.

What are my specific concerns about NAFTA?

First, overregulations is the opposite of what is needed for business growth:

The pending NAFTA should not be perceived as the only solution to increasing jobs and productivity in the United States. In addition to free trade other remedies are for Congress to implement pro-growth initiatives here at home—like reducing the capital gains tax so businesses can invest and expand, working to eliminate the Federal deficit which hinders economic growth, and eliminating cumbersome regulations and mandates on business have not been forthcoming from the Congress.

However, the side agreements to NAFTA imply the opposite. In the words of Ambassador Mickey Kantor, these side agreements would ensure that "No nation will lower labor or environmental standards, only raise them."

Not a week goes by that I don't get a letter from a small business owner suffocating under the blanket of Federal regulation. Not a week goes by when I don't hear from a small town in New Hampshire that cannot afford to comply with excessive Government mandates, regulations, and environmental standards. Now we have a trade agreement that says—in essence—things will only get worse. Efforts to roll back the heavy hand of Government regulation will be met head on by side agreements designed by advocates of big Government.

Mr. President, NAFTA will be very good for the redtape industry and for the lawyers—very good indeed.

Second, additional bureaucracy in and of itself, as it is set up in this agreement, infringes on U.S. sovereignty:

Adoption of NAFTA's side agreements would establish at least 32 new international government bodies or arbitration panels. These international commissions will, through an arduous, bureaucratic process, arbitrate challenges the NAFTA regulations. I am gravely concerned about the adjudication of disputes before the commissions and its affects on our sovereignty rights.

The United States has a right to set our own health, labor, safety, and environmental standards. This new bureaucratic army will lead an attack on our

Federal and State laws. These side agreements could, in effect, lock in existing U.S. laws for years to come, thereby inhibiting the right of the U.S. Congress to revise and amend our laws at its discretion. The NAFTA grants sweeping powers to these unelected international commissions between the three nations. These powers are inconsistent with free trade and a free nation.

In addition, unlike the General Agreement on Trade and Tariffs [GATT], the NAFTA side agreements establish procedures that deny adequate rights of appeal. While the United States represents 85 percent of the North American market, we are given only 33 percent of the vote in matters that are brought before the governing commission. On any given issue, Canada and Mexico can vote to keep deliberations secret—a fact that should be of concern to every Member of this body. They can vote to keep matters secret and we have one-third of the votes. So we could not win under any circumstances if those two nations wish to outvote us.

For these reasons, I last night voted for the measure offered by Senator STEVENS to eliminate these side agreements, which was denied on a point of order, which would have eliminated the very side agreements I am concerned with.

The NAFTA before the U.S. Senate today represents an attack on our national sovereignty that must be repelled. I cannot in good conscience lend my support to an agreement that violates the spirit of the Constitution I have sworn to uphold, and the United States' right to maintain our own standards.

Third, taxpayer subsidy to corporate and foreign governments polluters:

Mr. President, the third reason I am opposing this NAFTA today is because it would result in the implementation of legislation for a billion dollar border facility for environmental cleanup along the United States-Mexican border. I cannot support this further expansion of loan guarantees—up to $8 billion—to pay for environmental abuses south of the border. Why should the American taxpayer be required to pay for problems they did not cause and could not prevent? Why are the taxpayers being asked to finance the pledges of increased spending that are embodied in the agreement before the Senate?

Fourth, concern about bartering for votes:

A true free-trade agreement should stand—and be approved by Congress—on the strength of principle. I remember the congressional debate on the United States-Canada Free-Trade Agreement, and it did not resemble the "Let's Make a Deal" attitude that has permeated this NAFTA debate.

This horse trading for votes to support the agreement has gotten the attention of our North American neighbors. On November 18, 1993, the Washington Post quoted Ontario Premier Bob Rae as saying:

It strikes me as absolutely bizarre that . . . in the name of a free trade agreement [President Clinton] would be making all kinds of last-minute deals which stop Canada from having decent free trade access to the United States.

I ask unanimous consent the entire article be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. I agree. Mr. President, the President has promised to impose import curbs on Canadian wheat and Canadian peanut butter on certain products—in order to appease wavering legislators. Members of Congress are being asked to support higher tariffs so that we may lower tariffs. This artificial trade merry-go-round is more than bizarre; it is intellectually dishonest and inconsistent with the goal of free trade.

In conclusion, Mr. President, I am deeply disappointed in this NAFTA. As a strong proponent of free trade, I wanted to support this agreement. I regret that the issues of bureaucracy, overregulation, sovereignty and subsidies preclude me from supporting this measure.

EXHIBIT 1

[From the Washington Post, Nov. 18, 1993]

THE NORTH AMERICAN FREE-TRADE AGREEMENT—CANADA

(By Anne Swardson)

TORONTO, Nov. 17.—Canadians, never very fond of the North American Free Trade Agreement, were downright cranky today over the fact that congressional votes for NAFTA were being secured by possible new trade protections against Canada.

Ontario Premier Bob Rae, leader of Canada's largest province, charged that Canadian interests were being sold out in the name of NAFTA.

"It strikes me as absolutely bizarre that . . . in the name of a free trade agreement [President Clinton] would be making all kinds of last-minute deals which stop Canada from having decent free trade access to the United States," Rae said. "What he is doing is saying [to Congress]: 'I'll be a protectionist against Canada in order to get you on [my] side for free trade with Mexico.' It's completely bizarre.

Across the nation, Canadians pointed out that Clinton's promises to consider imposing import curbs on Canadian wheat and Canadian peanut butter to appease wavering legislators were not exactly consistent with the goal of free trade.

"Apparently, Clinton is willing to act like a wet noodle in order to placate the U.S. pasta lobby," the Toronto Star said in an editorial. ". . . It's hard to see why Ottawa would still proclaim NAFTA into law if the price of free trade were pasta protectionism at the border."

The Canadian Parliament has approved NAFTA, but the new government of Prime Minister Jean Chretien has not yet taken the final step to make the accord law. Ministers in his government generally played down the wheat and peanut butter deals, but said Chretien will raise numerous trade issues when he meets with Clinton in Seattle Friday at the Asia Pacific Economic Cooperation forum.

In both trade compromises, Washington has committed itself to imposing limits on Canadian exports within 60 days if certain conditions are met. Shipments of Canadian durium wheat, used in pasta-making, have increased sharply in recent years, leading to complaints from American farmers that their prices are being undercut. And American peanut growers complain that peanut butter from Canada can sell for less than the American product, whose price is pushed up by government price supports.

Chretien, who took office earlier this month, promised during the campaign to renegotiate portions of NAFTA, and he has not publicly changed his stance. In calling for new rules on subsidies and below-cost "dumping," Chretien is attempting to address widespread concerns that Canada is a victim of too many unfair-trading cases filed by American interests. The wheat and peanut butter deals seem to have accentuated those concerns.

Polls have found more Canadians oppose NAFTA than support it, although the major pollsters have not tested public opinion in several months. Unlike Mexico, Canada has nothing to gain from NAFTA-related trade restrictions, because each restriction erodes the free trade treatment Canada now enjoys.

Canadians, who live under a parliamentary system, also are less accepting than Americans of a political world in which vote-buying is a common occurrence.

"Don't expect our howls to be heard in Washington," radio commentator Andy Barrie said today in Toronto. "The sound of ringing phones in the congressional offices [as Clinton brokers new deals] will drown them out . . . If Congress agrees to NAFTA today, Clinton will know he got the best trade deal money can buy."

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there are many parts of the NAFTA agreement that make it unfair to workers in the United States, but I am just going to focus on a few this evening, mainly as it relates to automobiles and auto parts.

First, under NAFTA, Mexico's discriminatory trade laws against American manufactured automobiles remain for 10 years.

Mexico now discriminates against United States assembled autos by requiring auto manufacturers to produce in Mexico in order to sell in Mexico. They also require manufacturers in Mexico to export $2 worth of automobiles from Mexico for every $1 worth of autos that they bring into Mexico. Those are called trade balancing laws. They have had the effect of making it impossible to sell in Mexico cars assembled in the United States.

That is the barrier we face with American assembled automobiles.

Now, under NAFTA, that barrier remains at a slightly phased down version for 10 years. That is the phase down period. Some people say, under NAFTA, these barriers are eliminated. What they do not tell you is that they

remain for 10 years. We face those restrictions for 10 years, slightly phased down, yet we are going to lose manufacturing jobs in the auto and auto parts sector during that 10 year period because of these discriminatory restrictions.

What they do not tell you, because I do not think people want to know this, is that we are going to be asked to put into American domestic law—for the first time—these discriminatory restrictions that are currently in Mexican law. If NAFTA is agreed to, they become part of American domestic law. That is the first line under the auto decree part of the appendix of NAFTA. Reading from NAFTA:

> Until January 1, 2004, 10 years, Mexico may maintain the provisions of the decree through development of the Mexican automotive industry.

That is one part of the unfairness. But, we do not have any restriction on cars assembled in Mexico coming here. What is our restriction? Zip.

Next, Mexico's current laws require auto manufacturers in Mexico to purchase 36 percent of the parts that they use from Mexican parts manufacturers. That discriminatory law would also not be eliminated for 10 years under NAFTA. It would drop gradually during that 10-year period, from 36 to 34 percent for 5 years, and then for the next 5 years, 1 percent a year down to 29 percent.

We do not have any restriction on auto parts made in Mexico coming here. They have restrictions on our auto parts going to Mexico. And that restriction that discriminates against American auto parts also becomes part of NAFTA, which becomes part of American domestic law.

Why do we allow discriminatory restrictions on American autos and auto parts to remain for 10 more years? Why do we tolerate it for 10 more months or 10 more days? It is one thing for Mexico to protect its auto industry, which it has done. But surely, we should not incorporate in American domestic law discriminatory restrictions against our automobiles and our auto parts.

It is tough enough to compete against the $1 an hour labor, weak enforcement on environmental safety, and child labor laws, without tolerating discriminatory restrictions against our products for 10 more years.

This country has lost over 2½ million manufacturing jobs since 1979. A lot of that has been lost because of unfair trade practices. This is one of them. NAFTA says "Wait 10 more years, auto workers. Be discriminated against for 10 more years, and at the end of 10 more years then the discriminatory barriers end. In the meantime, take the slight reduction in the barrier and be satisfied with that."

And what I am here to say is we should not. Whether or not you produce autos or auto parts, all of us have manufacturing in our States. And what this is symptomatic of is a weak policy relative to manufacturing jobs.

Mr. President, NAFTA does not give us an open market for our automobiles or free trade for our automobiles. It has 2,000 pages of deals, rules involving all kinds of industry and trade. Some of our industries do well. Some of them do terribly. I am looking at an industry which is probably the biggest, involves more people employed in this country than any other industry. What I am telling this Senate is that the restrictions which discriminate against our auto parts and automobiles remain for 10 years in a slightly phased-down version, and this treaty would put those discriminatory restrictions in our law for the first time.

We want to get rid of these barriers now not 10 years from now. Get rid of the Mexican barriers to our autos and auto parts now if you really believe in free trade, or do not give us the lectures about free trade. Drop the lectures. Drop the optimist-pessimist, future-past, rear view mirror-front view mirror right now. Drop the barriers to American automobiles and auto parts now instead of 10 more years of discrimination and hundreds of thousands of more lost jobs in a very important manufacturing sector.

This is what we have lost in manufacturing jobs in this country. I want to compare it to Mexico, Japan, and Germany since 1985.

In 1985, the United States had 19.2 million manufacturing jobs. In 1992, 7 years later, 18.1 million. We lost over 1 million manufacturing jobs.

Mexico, during that period, went from 2.3 million manufacturing jobs to 3.3 million manufacturing jobs. That is an increase of 1 million manufacturing jobs in 1985 to 1992.

Japan went from 10.6 million to 13.8 million.

Germany went from 8.06 million to 8.34 million.

Every one of them significant increases in manufacturing jobs, except us. And one of the reasons that we have lost jobs, one of those—and there are many—is because we have tolerated one-way streets in trade. This is a perfect example of it, one-way street in trade with Mexico in auto parts.

The way to get rid of it is to get rid of it now, not 10 years from now.

If they will not get rid of it, and they want to protect their auto industry at the cost of auto jobs and auto parts jobs here, then we have no alternative but to tell them—Japan, Mexico, Canada—we have to put the same restrictions on your products that you put on our products and we will phase out our restrictions at the same rate that you phase out your restrictions. That is a two-way street.

Free trade is get rid of the barriers now. Let us do it. But if you are not going to do it, if you are going to keep those restrictions on our products for 10 years, then for Heavens' sake, if we have any common sense and care about our manufacturing sector, we have to put the same restrictions on the other guy that the other guy puts on us.

I wonder if the Chair would tell me how many more minutes I have.

The PRESIDING OFFICER. The Senator has 6 minutes and 1 second.

Mr. LEVIN. I thank the Chair.

Mr. President, the underlying premise supporting NAFTA is that American exports to Mexico will increase and that all exports create jobs. That is the premise. Over and over and over again we are told by the administration that there will be 200,000 American jobs created in the first 2 years of NAFTA. That was the President in September. And every other member of the administration is using the same 200,000-job figures. Secretary Bentsen calculates 200,000 more jobs in the next 2 years; Secretary Ron Brown, 200,000 big-wage jobs by 1995; Ambassador Kantor 200,000 jobs, the same 200,000 jobs.

The claim is a gross distortion. What it is based on is an assumption that there will be $10 billion in increased exports in the next 2 years and then they multiply it by 20,000 jobs per billion and they come up with 200,000 jobs. What they have not done is deduct any job losses from increased imports. The 200,000-job figure that this administration has been using refers only to export-created jobs in the next 2 years under NAFTA.

That is exactly one-half of the picture. Even if the assumption is right that we will have $10 billion more exports, what they have not even calculated, although they admit there will be some lost jobs to imports, is what the number of those jobs lost to imports is. They have not made any deduction on the 200,000 new jobs they claim for jobs lost as a result of imports. Do all imports lose jobs? No. But the administration and everybody admits some imports are job losses. But, we still do not get any deduction for imports.

That is what I call "NAFTA math." It is half of the picture, exactly half of the picture. In the NAFTA math book, which would make my old math teacher wince, they only have pluses, no minuses. We asked the Undersecretary of Commerce for Economic Affairs, Paul London, last week whether or not it is not true that there is going to be some job losses from imports. He said, "Yes." We asked him, "Have you deducted them from the 200,000?" He said, "No." We asked, "Do you know about how many there are?" He said, "No." We asked, "Did you try to calculate how many there will be?" He said, 'No." But, there it still flows, 200,000 jobs.

It is a distortion. It is like looking at a ledger in a business and just looking

at the revenues, not at the expenses, and saying it has been a really profitable year. By NAFTA math, we would be doing real well with Japan. Just look at the exports to Japan. Our exports to Japan are just terrific, in the tens of billions of dollars. In 1992, we had $47 billion in exports to Japan. Under NAFTA math, that is 840,000 export-created jobs to Japan. We are doing great by NAFTA math. There are 840,000 export-driven jobs because of exports to Japan. But, our trade policy with Japan, in reality, is a disaster because you must deduct the much larger losses from imports from that export figure.

They do the same thing with that 60,000 automobile figure. I have heard that over and over again in the last few days. There will be 60,000 more cars shipped to Mexico next year. That is a Department of Commerce figure which it derived from information it allegedly got from the Big Three. Assuming that it is true for the moment, how many extra cars are coming this way to the United States next year? Again, it is exactly one-half of the picture. All you get is export number. Ask the Commerce Department how many extra cars are coming this way to the United States In fairness, do you have to deduct the extra number coming this way from the extra number going that way, or at least consider them? We only get half of the picture. Is that the way they are going to sell this agreement? The answer is yes.

We tried for a month to get a number from the Commerce Department on the other half of the picture, how many additional cars are coming this way to the United States. Mexico increased their exports from 39,100 to 341,800 cars in the last 5 years. So if they claim, as they do, that 60,000 more cars under NAFTA will be going south, and those are all job creators under NAFTA math, how many additional cars will come this way north, and how many of those cars will be job losers? I think the Commerce Department owes the American people that number. I know the Commerce Department will not give us that number, and that is wrong and unfair. We have an obligation to improve the way we measure plant relocation and job loss in the United States. I held a hearing on this very topic last spring which showed that our Government does not even track the movement of U.S. plants offshore. In 1992, the Department of Labor discontinued its Mass Layoff Survey, the only survey that even attempted to track plant movement. If NAFTA passes, I will work to require the Labor Department to begin collecting this data in a useful way so we can monitor runaway plants and jobs.

Proponents of NAFTA have tried to portray anyone opposing NAFTA as preaching fear while they preached optimism. But when it looked like NAFTA was going to lose, the fear of Japan's going into Mexico was raised, the threat of anti-Americanism in Mexico was stressed, and the threat of illegal immigration was emphasized, to give but a few examples.

We must vote to defeat this NAFTA and send a strong message to our trade negotiators and our President that we want a better trade policy for our Nation. We want a trade policy that will allow our workers to compete on a level playing field. We want a trade policy that will ensure good jobs at fair pay for our people.

I yield the floor.

Mr. WARNER. Mr. President, as I approach my vote on NAFTA, I am reminded of that wonderful World War II song about aviators returning home "on a wing and a prayer."

After long and careful deliberation, I have decided to support NAFTA, with the fervent prayer that the agreement will convince Mexico to do all it can to help America stem the flow of illegal drugs and illegal aliens across our common border. This prayer, not a White House handout, is the basis for my vote.

The "wing," a sturdy wing, one which always succeeded in America, is the concept of free trade. Accept NAFTA for what it is: a bold, yet risky, experiment in free trade.

Whether or not to vote for NAFTA has truly been one of the most difficult votes I've been asked to decide since I have been in the Senate. I have read countless articles, spoken to numerous people, attended unlimited briefings, and have conducted my own conference in Virginia earlier this year.

This agreement has been touted so highly by its proponents that it has transcended from a trade agreement to a panacea which purportedly will solve all the Nation's ills on both sides of the border. Equally vocal, NAFTA's opponents view this agreement as our country's first step towards demise. Which side's statistics does one believe?

Undoubtedly NAFTA is a historic initiative, one which offers a unique opportunity to expand our exports, increase our productivity and ultimately create new jobs. It demonstrates to the world that America is committed to free enterprise and free trade, and that we negotiate in good faith.

Throughout the lengthy deliberation on NAFTA, my concerns have centered upon the critical issues of drug traffic and illegal immigration. At my request, the Senate Select Committee on Intelligence, of which I am vice chairman, looked into these issues.

In the final analysis, I am counting on a cooperative spirit between our Nation and Mexico to resolve these problems—a spirit which NAFTA should foster.

NAFTA is not the panacea it has been touted to be by its ardent proponents, nor does it offer the opportunities of the Oklahoma land rush, as debate would lead us to believe. What we have before us is an experiment, one which follows the free trade principles that constitute sound economic policy, sound trade policy, and sound foreign policy.

I ask unanimous consent that articles by former Governor of Virginia Gerald Baliles and James Miller, former Director of the Office of Management and Budget and current President of Citizens for a Sound Economy in support of NAFTA be printed at this point in the RECORD, along with a letter from Attorney General Janet Reno regarding the impact of NAFTA on illegal drug trafficking and illegal immigration, concerns which prompted my vote.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAN TRADE BE EXPANDED BY RESTRICTING IT?

(Remarks by former Virginia Governor, Gerald L. Baliles)

I am pleased to be here with you today. I think it is especially significant and important that this meeting is cosponsored by the International Practice Section of the Virginia Bar, the George Mason University International Institute and the Virginia State Chamber of Commerce. That these three groups are working together in this way is good news for those who want to see Virginia become even more globally competitive in the future.

At the outset, I want to congratulate Dr. Stuart Malawar on his having received the Hardy Cross Dillard Award. The International Transactions Program he has developed and seen grow is a major success story in Virginia higher education. I have supported it from the earliest days with my words, with my actions, and now—with my son having just enrolled in the program—with my wallet!

In most of the speeches I have given over three years, regardless of the topic, I have found a way to focus on the importance of the global economy. Our ability to create jobs, expand opportunity and serve our citizens depends increasingly on our ability to compete and trade globally.

I always find a receptive audience for that message here in Northern Virginia. I know some of you have heard me expound on some of these subjects before. In fact, many of you could probably give this speech yourselves. You need no education on the importance of trade.

The fact of the matter, however, is that most Americans do. There is perhaps no better example of that fact then the current debate, now reaching almost fever pitch, over the North American Free Trade Agreement (NAFTA).

You have all seen the polls in the nation's major newspapers. While the public is closely divided on whether NAFTA should be approved, the astounding fact is that so many people have no idea what it is. Even among those with an opinion, there is very little knowledge about what is actually in the agreement, how trade with Mexico has grown over the past several years, or what is at stake should the Congress reject the agreement.

All of this was perhaps most visibly displayed when, a week or two ago, Jay Leno asked people on the street if they knew anything about NAFTA. He found out what the

polls have already told us. Though I did not watch the show, I am told some thought NAFTA was a brand of soap; others thought it was the name of a rock band. And this in Southern California—an area of the country with an enormous stake in the outcome of this debate.

If I have ever seen a more compelling case for the importance of educating our people about these issues, I don't know what it is. The giant sucking sound you hear is most likely the vacuum of knowledge that too many are eager to exploit.

In this context, it is worth noting that, while they may agree on virtually nothing else, Pat Buchanan and Ralph Nader have argued against both NAFTA and GATT and, indeed, against the U.S. belonging to GATT at all. Between them—one on the right and one on the left—lies that vacuum, and a citizenry willing, even hoping, to be led. Enter Ross Perot.

Let me be clear. I do not mean to say that anyone who knows anything should be in support of this agreement, and that those opposing it are ignorant of the facts. On any issue, two people looking at the same facts can come to a different conclusion. My own conclusion is that NAFTA is an important part of this nation's plan to compete in a global economy and that it should be approved. I strongly support the agreement. I realize others might not.

The point I do wish to make, and to drive home in the remainder of my remarks, is that the American public needs to better understand the facts and the issues so that claims and arguments can be more carefully evaluated.

Somehow, it must be understood that the growth and prosperity of our country is increasingly tied to the expansion of international commerce.

Our standard of living is directly tied to the continuing expansion of our economic relationship with Mexico and Latin America, and to the success of the effort to expand trade through a new modernized GATT agreement.

We should more fully appreciate that increases in trade have led, over the past several years and during the entire course of our history, to the creation of new jobs in every state in the union, including Virginia.

And, we need to understand that, in a global economy, capital, production and labor will continue to move across national borders—regardless of the outcome of the NAFTA debate.

I am aware that rarely in our history have our leaders been able to successfully explain the importance of trade to the American public. With the exception of the post-war era—during which the consensus for containment of communism made such things a little easier—our leaders, too often, have not even tried.

The fact is that throughout the first century and a half of our history, attempts to contain, manage and restrict international trade were a fixture on the American political landscape. During that period, tariffs were always a major issue dominating the time and attention of Congresses, presidents and opinion leaders. The Smoot-Hawley tariffs, which so deepened and lengthened the Great Depression, were not so much an aberration, but the unfortunate culmination of decades of political pressure and precedent. Indeed, the past fifty years of American leadership in the cause of liberal trade is itself the aberration.

It has always been difficult for political leaders—particularly those in favor of trade expansion—to explain trade issues to their constituents, particularly in uncertain times. An old professor of mine, E.E. Schattschneider, once tried to explain why, in the face of all available evidence to the contrary, it is so hard for legislators to vote to reduce tariffs and expand trade. "The history of the American tariff is the story of a dubious economic policy turned into a great political success," he wrote. "The very tendencies that have made the legislation bad have made it politically invincible."

A former U.S. trade negotiator once put it a little more bluntly as reported in *American Trade Politics*, a book published by the Institute for International Economics. In the words of this trade negotiator, a politician who votes to lower trade barriers while under special interest pressure is performing, and I quote, an "unnatural act."

So, the restriction of trade does have a place in the American political tradition. But we must realize that the era of sheltered industries and self-sustaining domestic markets for America has ended. The new global economy respects no national boundaries, respects no preordained market shares, respects no prior claim to profits.

Our leaders must, as Adam Smith once said, "represent the future to the present," and explain this to the American people. I am very pleased that President Clinton has chosen to do so.

Of course, it is difficult to talk about the future to an electorate seemingly convinced that government—at all levels—is adrift, debating issues as if in a vacuum with little sense of how those issues relate to one another, to the lives of ordinary people, or to the future of the country.

And it is an electorate nostalgic for a simpler past, when the United States was the unquestioned economic leader. Some, on both the left and the right, sensing this nostalgia, work to accommodate it, promising a return to that past if only we will contain the evil designs of our competitors; that if we contain Japan, for example, or reduce our trade and investment with Mexico, we can return to the economic position we held in the first twenty years of the post-War period.

It is true that many Americans have legitimate fears about the future of their jobs and their communities. They have an understandable impulse to fix blame and seek redress. The expansion of trade comes with a share of pain, as has every economic change and advance from the beginning of our history. This should not be underestimated, and it should be addressed.

But all we need to do is look at the economies of Eastern Europe and Latin America to see the consequences of looking inward. For a more direct comparison, all we need to do is look at the Smoot-Hawley tariffs, to see the price a strong nation can pay when it restricts trade.

Of course, those examples are far away, in either time or distance. So, let's look at some facts that are not well enough understood by the American people.

To hear the debate, you might well conclude that the U.S. exports nothing of value to Mexico. Yet, since Mexico joined the GATT agreement in 1986, U.S. exports to Mexico have risen from $14 billion to more than $40 billion—an increase of 178 percent. We now run a trade *surplus* with Mexico of nearly $6 billion.

These numbers are mirrored in Virginia. We have seen exports of goods and services from Virginia to Mexico rise at an average annual rate of 38 percent since 1986, from $41 million to more than $158 million. Export growth from Virginia to Mexico during this period was more than 200 percentage points greater than export growth to the rest of the world, according to the U.S. Department of Commerce. This increase includes goods in such important sectors as transportation equipment, paper products and rubber and plastic products.

It is important to remember that, while our tariffs on Mexican-made goods are already rather low, Mexican tariffs on American-made goods are much higher. This treaty will, over time, level that playing field for our companies.

To hear the debate, you might also conclude that Mexicans are too poor to buy anything of real value from Americans. Yet, the fact is that the average Mexican spends 34 percent more on American goods than the average European and 14 percent more than the average Japanese consumer.

It is true that millions of Mexicans live in poverty. Yet, 30 percent of the country lives on a wage that one might consider middle or upper-middle class. People who buy computers and other such items. That amounts to 25 million people, the size of the population of Canada!

To hear the debate, you might conclude that low wage Mexican workers are poised to take as many American jobs as can be moved south of the border the very moment NAFTA is approved. This may be the most vivid image used by treaty opponents to play on the fear of American workers fearful of losing their jobs.

Yet, labor costs are but one factor in determining where production will occur. Though the labor component of the cost of building an average automobile is five times as high in the U.S. as in Mexico, the fact remains that it is less expensive to build that car here. Shipping and other costs more than make up the difference.

To hear the debate, you might think that the entire exercise is about making it easier for American firms to invest in Mexico, thereby, to use the popular phrase, "exporting jobs."

Yet, the treaty will actually reduce the current incentive to move jobs to Mexico by phasing out Mexican domestic content requirements, permitting additional use of American-made parts and components. A major U.S. automobile company has already announced that it will move jobs back across the border as the treaty will make it easier to sell American-made automobiles in Mexico.

It should be noted that there are some inconsistencies in the investment debate. It is interesting that, as a consensus grows in some quarters that we should increase our investments in places like Eastern Europe, Africa and Southeast Asia, some would work to stoke fears of similar investments in Mexico.

In all of this, we should not forget the fact that Canada—this nation's largest trading partner—is an active part of this agreement. Indeed, NAFTA builds on the U.S.-Canada Free Trade Agreement, which has been good for America's economy—and Virginia's. In fact, the Commonwealth's trade with Canada has nearly doubled since the Canadian agreement was signed. That is why I joined with then-Governor Clinton to urge the National Governors Association to endorse the treaty with Canada in 1988.

The American people need to be better informed on all of this. These increases in trade with Mexico I have described will not go on at these rates forever, nor—in an economy our size—will this agreement be the silver bullet that will set the nation's economic

course right again. But this agreement can point the direction to a future of expanded commerce and greater opportunity.

And what if it fails?

Mexico's political leadership has taken enormous political risks in opening the country's economy to more of our products, and privatizing key sectors of the economy. Those gains would be seriously jeopardized if the anticipated result, economic growth based on expanded trade with the United States and Canada, fails to materialize. NAFTA opponents point to continuing problems in Mexican politics, but do they seriously believe that rejection of this agreement will help liberalize the Mexican political system?

Mexican environmental officials—many of whom I have met—are working hard to develop new procedures to enforce their laws. It will take time and it will take money. Most of our nation's environmental groups now believe the environmental side accord will further the goal of protecting the Mexican environment and support the agreement. How can anyone seriously believe that rejection of NAFTA will help Mexican environmental officials in their effort to promote better environmental management?

Mexican working conditions admittedly suffer by comparison with ours, as do wages. But, as I have already stated, the actual cost of production, given shipping costs, productivity differences and the like means that it can be cheaper to manufacture goods in the United States. Besides, does anyone seriously believe that the way to promote Mexican living standards is to deny the Mexican economy its best opportunity for growth?

It is true that American workers are increasingly worried about their future. The economy has changed fundamentally, there is no going back. Some jobs, some industries will disappear—with NAFTA or without. But does anyone seriously believe that denying the American worker the opportunity to sell more than $40 billion worth of goods and services to Mexico each year is going to help raise standards of living on our side of the border?

Let me share one final worry, which brings me back to the question posed by the title of my speech: "Can trade be expanded by restricting it?"

I just finished four months as Chairman of the National Commission to Ensure a Strong Competitive Airline Industry. We studied a wide variety of issues and made 60 recommendations. But we spent much of our time looking at the international scene, and we did not like what we saw.

A patchwork quilt of bilateral aviation agreements—1200 in all—now governs the world's aviation system. Those agreements are under increasing pressure as several of our air service partners seek to restrict service. One of our most important agreements—that with France—has been renounced. Others may follows. Service will suffer.

The result of this trend will be a reduction in the flow of people, products and services. I have argued that if this continues, we will have proven the thesis that you cannot expand trade by restricting it, and economies all over the world will suffer.

I believe we face a similar situation with this agreement. The stakes are much higher than our future relationships with Mexico and Canada—and those are critical stakes. If we reject this agreement, the Europeans will see no reason to summon up the political courage necessary to complete the GATT Round. Why should they? To agree on a deal to expand world trade, face the wrath of their own special interests and then see the U.S. Congress back away from the deal?

The Europeans, indeed all of our trading partners, are watching the outcome of the NAFTA debate closely. Their incentive to deal with us if this agreement is rejected will be diminished to near zero. The most advanced countries will see much less advantage to opening their markets to goods from less advanced economies. Western Europe, for example, will be less willing to open to Eastern Europe.

I believe rejection of this agreement will be our worst economic mistake since Smoot-Hawley. We will be adopting trade restriction as a *de facto* national policy if Congress votes no.

As President Clinton pointed out last week, our decision to lead the way toward liberalized trade after World War II has helped bring unimagined prosperity to this country and to others around the world. Some call those other countries competitors. I prefer to call them markets. If we vote to eliminate competitors, we vote to eliminate markets.

If we had not made the decision after World War II to liberalize trade, we would all be poorer. We have a similar opportunity now. The entire question of our commitment to the expansion of global trade—which has been subsumed for so long in our commitment to the containment of communism—is now open for debate. It is critical that the debate be conducted on the highest plane possible, with the American public in full possession of the facts. Those of you in this room, regardless of your position on a particular trade agreement, have the ability and the obligation to ensure that this occurs. This debate is too important to the future competitiveness of the country to be conducted without all the facts.

I believe the debate must be conducted with reason rather than emotion, and decided by facts rather than fiction. We can and must ensure that we proceed along this path. I hope that you will help.

Thank you.

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HOW DO YOU SPELL NAFTA? IN VIRGINIA—IT'S J-O-B-S

FAIRFAX.—Of the various reasons for supporting NAFTA, one of the most important is the positive impact that approval of the agreement would have on employment in Virginia.

While Ross Perot may hear a great sucking sound in Texas, we in Virginia have been hearing the sounds of trucks, trains, and ships carrying Virginia-made products to our neighbors south of the border. According to a new study by Virginia Citizens for a Sound Economy, during the past five years the value of Virginia exports to Mexico increased nearly four-fold: from $41 million in 1987 to $158 million in 1992. Some 2,300 jobs were created in the Old Dominion.

This didn't happen by accident. In major part, it was the result of dramatic reforms initiated by President Carlos Salinas. In addition to making the Mexican political system less corrupt and more accountable, Salinas has put the Mexican economy on the road to a free market. An important part of the Salinas program of economic liberalization has been the lowering of tariffs and other impediments on U.S. goods flowing into Mexico. This has made it more attractive for Mexican consumers and companies to purchase U.S. products, including those made in Virginia.

Like it or not, the permanency of the Salinas reforms hinges on the success of NAFTA. Simply put, if NAFTA fails, we will see a reversion to protectionism in Mexico, not to mention less stability in the political order.

What would disapproval of NAFTA mean for jobs in Virginia? First, the growth of Virginia exports to Mexico might well come to a halt, and the volume could even shrink. But just assume there is no further growth. According to Virginia Citizens for a Sound Economy, if this happened an estimated 9,000 jobs in Virginia that would have been created over the next five years simply won't materialize.

But even this understates the effects of NAFTA on employment in Virginia. Since NAFTA would lower trade barriers much more rapidly than in the past, many more than the 9,000 jobs mentioned above are at stake. Perhaps another 5,000 or even 8,000. No one knows for sure.

What does Virginia export to Mexico? In value terms, the largest share is transportation equipment—26 percent. Computers account for 18 percent; chemical products for 13 percent; food products for 9 percent; primary metals for 8 percent; and the rest, 26 percent. These do not represent the "hamburger-flipping jobs" so disparaged by the alarmists. These exports represent solid, secure jobs that pay more than average U.S. wages.

If NAFTA is passed, the highest tariff rates on transportation equipment would fall from 10 percent to zero. The tariff on industrial machinery would fall from 17 percent to zero; on computers from 16 percent to zero; and on chemical products from 20 percent to zero. These tariff reductions and other liberalizations in trade will accelerate Virginia exports to Mexico and create more jobs in the Old Dominion.

An anti-NAFTA vote would clearly jeopardize job creation in Virginia. A pro-NAFTA vote would mean not only more jobs but more personal freedom and consumer choice.

It ought to be a no-brainer.

**Jim Miller, former budget chief for President Reagan, is with Virginia Citizens for a Sound Economy.*

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OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, November 12, 1993.*

Hon. JOHN W. WARNER,
*U.S. Senate, Washington, DC.*

DEAR SENATOR WARNER: Thank you for taking the time to talk to me about the North American Free Trade Agreement. I appreciate very much this opportunity to provide you with additional information.

NAFTA WILL REDUCE ILLEGAL IMMIGRATION

As we discussed, I am insisting that we do everything humanly possible to protect our borders against those who would ignore our immigration laws. Our efforts include significantly increasing the size of the Border Patrol, implementing innovative approaches to deploying our personnel most effectively along the border, using new technologies to sharpen our eyes and ears on the border, and shutting the loopholes that some use to flout our immigration laws.

Nonetheless, the basic fact remains: People come to America illegally because they seek better jobs. We will not reduce the flow of illegal immigrants until these immigrants find decent jobs, at decent wages, in Mexico. Our best chance to reduce illegal immigration is sustained, robust Mexican economic growth. NAFTA will create jobs in the United States and in Mexico. The new Mexican jobs will go to Mexican workers who might otherwise cross illegally into America. These jobs will help us stem the tide of illegal immigration.

Numerous studies prove this point. In 1986, Congress created the Commission for the Study of International Migration. After completing its work, this Commission concluded that the creation of new and better jobs in Mexico—through measures including a free trade pact—is the only long-term way to reduce illegal immigration to the United States. A University of California study in 1991 also found that free trade with the United States and internal economic reforms would reduce illegal immigration from Mexico. The study estimated that NAFTA could reduce illegal Mexican immigration by anywhere between 250,000 and 1.1 million people. Even a study by a NAFTA opponent at the Economic Policy Institute concluded in 1991 that NAFTA would reduce illegal immigration from Mexico by as many as 1.6 million people by the turn of the century.

The failure of NAFTA would worsen the problem of illegal Mexican immigration. For example, major agricultural reforms are already underway in Mexico. These reforms will take place with or without NAFTA. The reforms will cause many Mexican workers to leave their rural homes. With the jobs created by NAFTA, these workers will get jobs in nearby cities. If NAFTA fails, Mexican urban centers will not be able to absorb the influx of farm workers. That will mean even greater pressures on our borders.

Recently I met with a distinguished group of immigration experts and economists. And this group was unanimous: If America is truly determined to reduce illegal immigration, then NAFTA must be approved. The failure of Congress to ratify NAFTA will strike a devastating body blow at our efforts to halt illegal immigration.

NAFTA WILL ENHANCE AMERICA'S DRUG INTERDICTION PROGRAMS

You and I are both concerned about stanching the flood of illegal drugs over the Mexican border. This job requires genuine, sustained cooperation with the Government of Mexico. I firmly believe that NAFTA will assist our law enforcement efforts.

First, NAFTA will cement for decades close ties between America and Mexico. The trade agreement will make cooperation between our two countries the norm instead of the exception. With NAFTA in place, I can work more effectively with my Mexican counterparts to ensure tough, honest enforcement of our anti-drug laws.

Second, NAFTA will give us additional law enforcement tools. Customs Service Chief George Weise said recently that although NAFTA will increase cross-border commerce, NAFTA's net effect will be an improvement in the Custom Service's drug interception efforts. NAFTA will enable Customs agents to enter Mexican plants that they now lack the authority to inspect. While their access would be primarily to ensure that goods bound for the United States actually originate in Mexico, such access will also give them the opportunity to look for signs of illicit narcotics.

Third, NAFTA will ensure cooperation on a whole range of other important issues with Mexico. For example, during my recent meetings with the Mexican President and Attorney General, we discussed a program to return illegal immigrants who are serving time in American prisons. This is a very important initiative; it would free up scarce American prison space so that we can incarcerate more violent, repeat offenders. NAFTA's passage will significantly boost programs such as our prisoner return initiative.

In short, Senator Warner, the experts I met with recently confirmed that our best chase to reduce illegal immigration is continued and meaningful Mexican economic growth. The passage of NAFTA is essential to the achievement of this goal.

Please do not hesitate to call upon me if I can provide any additional information.

Sincerely,

JANET RENO.

Mr. SPECTER. Mr. President, no vote has been more difficult among the 4,758 votes I have cast as a U.S. Senator than this one on NAFTA. After extensive study, listening to constituents, discussions with so-called experts, consultation with colleagues, and personal deliberation, I have decided to support NAFTA.

My main worry on supporting NAFTA is the potential loss of jobs in the short run. Such job losses are enormously problemsome for the entire country, but especially for Pennsylvania, which has been hard hit in many industries including steel, coal, textiles, and glass—to mention only a few.

However, in my judgment, that significant disadvantage is outweighed by the prospects for some offsetting job gains within a reasonable period of time and the long-range prospects for many additional jobs. Notwithstanding the long-range benefits of free trade, it is still difficult to cast a vote which may cost many Americans, including many Pennsylvanians, their jobs. I have anguished over that concern as I have heard from many constituents from threatened industries.

It is hard to vote against so many friends among the working men and women who oppose NAFTA; but, of course, I have many friends who support NAFTA and ultimately I must decide where the balance lies in the interest of my State and Nation.

As my Senate voting record demonstrates, I have consistently supported the interests of the working men and women in voting for raises in the minimum wage, extended unemployment benefits, expanded job training, and increased funding for workers displaced by imports or defense cuts.

The Federal Government must make good on current promises, which I support, to develop a comprehensive program to offset employment dislocation due to NAFTA. The transitional worker assistance program and increased funding for job training are indispensable parts of the Federal Government's responsibility to ease job losses caused by NAFTA.

My unwavering support for our working men and women and my extensive efforts on the Senate Appropriations Committee to bring Federal projects to Pennsylvania have been directed to supporting existing jobs and to stopping the erosion of the industrial base of my State. In considering NAFTA, I believe it is necessary to weigh the interests of the next generation of Americans, including Pennsylvanians, on expanding job opportunities for the future. The competing interest of security for the present and opportunities for the future have to be carefully evaluated and balanced.

I am confident that the United States can compete effectively with Mexico, Canada, and for that matter other countries in the markets of free trade notwithstanding the lower wages which currently prevail in other countries. As I have supported extensive Federal programs for current workers which involve some burdens for the next generation on the deficit, I think that consideration and benefits must be given to the next generation on free-trade agreements like NAFTA.

The benefits of free trade will improve the future economies of most, if not all, nations including the United States. Our role as a world leader on free trade, as well as many other matters, is very important, but this leadership will not involve long-range costs to the United States like our leadership on other matters. It will instead provide substantial long-range economic gains for our people as well as the other people of the world.

Many important aspects of our trade laws have not been addressed notwithstanding the fundamental unfairness to U.S. industries caused by subsidized and dumped imports. Subsidized and dumped goods violate the basic principles of free trade which mean the costs of production plus a reasonable profit without permitting foreign governmental subsidies or dumping.

Since 1982, I have sponsored and pushed legislation which would create a private right of action in the Federal courts to obtain injunctions to stop dumped or subsidized goods from coming into our country and to provide damages to compensate workers and companies which have sustained serious damages from such imports.

I voted against the so-called fast track for NAFTA because I wanted to preserve my right to offer amendments on the Senate floor including provisions for such private rights of action. Regrettably, the so-called fast-track provisions were enacted and amendments are not possible. I have pressed executive branch officials including the Secretary of Commerce and the U.S. Trade Representative to support such private rights of action. While I have received a sympathetic hearing, I have received no commitments; but I intend to press these issues with executive branch officials and with legislative proposals in the Senate.

In my extensive travels through Pennsylvania's 67 counties, I have seen the problems of Pennsylvania's working men and women including the injury caused by dumping and subsidized imports which violate the principles of free trade. I have witnessed the difficulties of obtaining fair access to foreign markets by Pennsylvania's farmers and manufacturers, and I have seen the potential for economic growth in

our State and Nation hampered by such barriers to free trade.

As I have frequently said, a Pennsylvania Senator has the diverse representation of some six States contrasting the interests of farmers, residents of the inner cities, steelworkers, people who live in the Allegheny National Forest, coal miners, and participants in the emerging high-technology industries.

This has been a very emotional issue for America. I watched the often-heated and sometimes-eloquent arguments on the floor of the House of Representatives on Wednesday. I know that the pressure has been more intense in the House because that was where the battle was expected to be the closest. But the Senate has received its share of comment and controversy.

While the affirmative vote in the House and likely majority in the Senate presages the passage of NAFTA, this may not be the last word on this important subject. The Congress will have the opportunity and responsibility to revisit this subject. Many of us will closely monitor the situation to observe Mexican and Canadian compliance and the tangible steps taken by the administration to assist displaced workers. The doors of Congress remain open to modification should that become necessary.

Mr. GLENN. Mr. President, let me begin by saying that the vote I cast today is not any easy or automatic one. I consider myself to be a strong supporter of free—but fair—trade. I have consistently supported the GATT, with its reasoned sector-by-sector approach to multilateral trade negotiations. I supported the United States-Canada Free-Trade Agreement and the United States-Israel Free-Trade Agreement—the only two free-trade agreements the United States currently has.

But today we are talking about something very much different from those two existing agreements. There is no precedent for a free-trade—and free-investment—agreement between countries as disparate as the United States and Mexico. There are profound difference in levels of economic development, in wages rates, and most importantly, in general standard of living.

In saying this I am simply stating facts, I mean no disparagement of our friends and neighbors to the south. I believe the United States should seek vigorously to expand trade and economic links with Mexico and with the rest of the nations in our hemisphere. And I would like to be able to vote for NAFTA, but I must conclude that NAFTA in its present form is not acceptable.

There has been much hype and hyperbole by both sides in this NAFTA debate. The decision we make on this agreement has been characterized by NAFTA proponents, mischaracterized in my opinion, as a choice between hope and fear, between optimism and pessimism. That is rhetorical nonsense.

This is not a choice between the past and the future; it is a choice about what kind of future. It is a hardheaded economic decision about how the United States can best promote our international competitiveness while improving the standard of living for American workers and their families. I believe the majority leader in the other body was exactly right when he said it is this NAFTA that represents the past, the past where the United States too often used trade policy concession to achieve other, mainly foreign policy, goals.

This is a complex and complicated agreement, five volumes, thousands of pages. I am skeptical of anyone who says they know exactly how it will play out; I imagine it will be a mixed picture.

But by almost every study, every assessment or estimate, Ohio will be one of the States most affected by NAFTA. Plus or minus jobs? That is the basic question. Short-term? Long-term? Ohio has substantial trade with Mexico now. Will that trade—that is jobs—go up or down? Estimates go all over the lot, proving only that it is extremely difficult to predict what will happen following the creation of a new and previously untried entity like NAFTA. Predictions vary—the administration's rosy scenario asserts that "Ohio could have 5,500 more jobs by the end of 1995," and presumably even more as NAFTA is fully implemented and the Mexican economy grows in the years ahead. On the other end of the spectrum, a now year-old doom and gloom prediction by a noted international trade expert estimates that Ohio could lose as many as 56,000 jobs with NAFTA's implementation. To compound the problem further, most of the people doing doing the forecasting are sincere, thoughtful, and credible experts you want to believe. The truth probably lies somewhere in the middle of all the predictions.

I believe the rhetoric and hyperbole on both sides has been escalated far beyond a reasonable level. I do not believe that passing NAFTA will be the all important saving grace of the Mexican economy as some would have us believe, nor will failure to pass NAFTA doom the Mexican economy to the doldrums. Conversely, north of the border, NAFTA approval is not likely to result in quite the big sucking sound job loss that has received so much attention, nor will defeat of NAFTA guarantee a vibrant United States economy by protecting against cheaper labor costs in Mexico.

I want to take a few minutes to outline another primary concern I have about the agreement—it significantly increases the attractiveness of investment in Mexico creating a powerful magnet drawing investment—and the jobs created by that investment—south of the border. I do not believe this probable investment flow has been given sufficient attention in most studies, nor in the congressional debate, and it is probably the single most important factor in the education of whether NAFTA will prove to be beneficial or an albatross round the U.S. neck.

NAFTA proponents have used the example of the integration of Spain and Portugal into the EC to support their contention that NAFTA will not lead to the diversion of investment from the United States to Mexico. I believe an examination of the facts of that case is instructive.

First, the wage gap between the United States and Mexico, at 7 to 1, is much larger than that which existed between the EC and Spain and Portugal, at 2 to 1. Second, the number of workers Mexico adds to this newly integrated market is much larger than what was brought into the EC by Spain and Portugal. Mexico's work force of 30 million equals 24 percent of that of the United States and Canada. In contrast, the work force of Spain and Portugal was only 14 percent that of the EC. Third, the EC committed $85 billion to promote development in the economically disadvantaged regions of the Community—it invested and continues to invest in the poorer countries added to the EC and in poorer regions of original EC countries which suffer as a result of competition from the lower-wage new entrants.

Finally, the EC required that its new entrants be functioning democracies and that they adopt common labor, social, and legal standards in order to minimize capital flight in search of the lowest wages and standards.

NAFTA proponents have argued that American businesses can invest in Mexico now, and that is certainly true and they certainly have. However, when they carry that thesis forward to suggest that those who wanted to go have done so or that NAFTA will not change the situation, they ignore one of the two fundamental pillars of the agreement and thus mislead the American people.

NAFTA is every bit as much a free-investment agreement as it is a free-trade agreement; I do not think anyone would dispute that assertion. NAFTA would ensure United States investors and their investments treatment equal to that afforded Mexico's own investors. NAFTA would end Mexico's current restrictions on foreign investment, eliminate performance requirements, remove the general approval process for foreign investment, and liberalize investment rules in various sectors. NAFTA would prohibit expropriations, ensure the convertibility of foreign investor's Mexican currency and the repatriation of profits. NAFTA

would provide for the protection of intellectual property and establish a dispute settlement mechanism for foreign investors outside the Mexican courts.

In summary, as the Congressional Research Service stated in a report on Mexico's investment policy, NAFTA "would increase investor confidence in Mexico by providing more assurances that Mexico would not reverse the changes in foreign investment regulations and by providing foreign investors with more legal protection for their investments in Mexico."

And finally, of course, NAFTA would give those who invest in productive capacity in Mexico free and unimpeded access to the largest consumer market in the world, the United States of America.

So now that their investment would be more secure, why would investors want to invest in Mexico, what advantages does Mexico have to attract these investors? My friends on the other side of this issue say that if low wages were the sole criteria for investment decisions, Haiti and Bangladesh would be economic superpowers. That gross simplification misses the key point—it is not low wages alone that make Mexico attractive; it is the low wages combined with relatively high productivity in the manufacturing export sector and the nearly 260-million person United States market.

As labor economist Harley Shaiken has ably pointed out, Mexican productivity in this sector has grown rapidly to where it approaches or matches our own, but at Third World labor rates which are not permitted to rise in tandem with productivity. And it is to trends in the manufacturing export sector, financed primarily by foreign, principally United States, investment, that one must look to try to foretell the future of wages and productivity in the foreign investment sector of the Mexican economy.

Now NAFTA proponents claim that, once we are one economic unit, the beneficial impact of the agreement on the economies of all three nations will cause Mexican wages to rise thus wiping out the gap and eliminating the incentive to go south in search of cheap labor. That is nice in theory. But I have asked repeatedly how long will this take? Years? Decades? Generations? And I have never received a satisfactory answer.

It is not very comforting to understand that, contrary to what is predicted by economic theory, Mexican wages have not risen as productivity increased. This is because wage rates are fixed by government policy. And government policy is not particularly interested in erasing the wage-productivity gap that is so attractive to the foreign investors Mexico is actively seeking.

I understand that President Salinas has pledged to link the Mexican minimum wage to productivity increases. Unfortunately, the current Mexican minimum wage is about 58 cents an hour. Even if that wage is allowed to increase every year by the same rate predicted for the faster-rising productivity in their manufacturing export sector, we are only talking about a 2 to 3 cents per hour increase. Tell me, at that rate, how many years will it take for Mexican wage rates to even begin to approach United States wages of today?

I was involved in international business before I came to the Senate. And I am convinced that this very substantial wage rate-productivity gap will be a powerful incentive for American companies to produce in Mexico. Sure Mexico may have offsetting disadvantages. But for many industries, they would have to be pretty dramatic to wipe out the advantages of much cheaper yet productive labor.

Now NAFTA proponents dismiss this concern saying that any NAFTA-induced investment diversion will be too small to matter, will come at the expense of U.S. investments elsewhere not at home, and any jobs lost will be replaced by better jobs created here. They say that 19 of 20 studies showed that NAFTA would be good for the U.S. economy and labor. But guess what, none of those 19 studies even attempted to factor in the impact of even a small investment shift from the United States to Mexico. They simply ignore it, assume it away.

Selling NAFTA, or studying NAFTA, on the basis of its trade impact alone is misleading and incomplete. Mexico wants investment from NAFTA, they have stated a goal of increasing the share of foreign investment to 15–20 percent of all new investment in Mexico, and they were willing to agree to very generous investment protection provisions to get it.

It is hardly idle speculation that American businesses might build manufacturing capacity in Mexico, in fact it is idle speculation to assume they will not. The United States is by far and away the largest foreign investor in Mexico, accounting for roughly two-thirds of the direct foreign investment there.

Mexico's liberalizations of the 1980's led to an explosion of United States manufacturing plants being located there, most in the maquiladora zone. In the last 6 years, United States companies' investments in plant and equipment in Mexico has tripled. Absent any increase in the United States savings rate, an increase in United States direct investment in Mexico will come at the expense of United States investment elsewhere and at home. It seems entirely reasonable, therefore, to conclude that at least a significant portion of that new investment in Mexico will be diverted from investment here in the United States.

In a survey conducted by the Roper organization for the Wall Street Journal in September 1992, 40 percent of United States companies stated that they were very likely or somewhat likely to shift some production to Mexico in the next few years if NAFTA is passed. For companies with sales of at least $1 billion a year, the percentage responding this way was 55 percent. Yet the pro-NAFTA studies used by supporters of this agreement simply assume that will not happen and then go on to make their cheery predictions.

The Congressional Joint Economic Committee also reviewed many of the studies predicting the economic impacts of NAFTA. Of the 16 studies examined by JEC, 10 "begin by assuming that no investment will be diverted from the United States to Mexico, and are therefore unable, by design, to conclude that the United States could suffer job losses because of shifted investment." Of the remaining six, four attempt to quantify and factor in a level of investment diversion. Of those four studies, three show negative effects on U.S. employment—significant gross job dislocations, net job losses, and reduced wages.

To me this strongly suggests that the investment liberalization impact of NAFTA must be given equal weight with trade liberalization impact. And when this is done, those consistently rosy scenarios get considerably cloudier.

We owe it to the working men and women of America to develop and effectively implement economic and trade policies which promote growth and investment at home. I do not fail to understand the importance of exports to our economic well being. My State of Ohio is the third largest exporter of manufactured goods; one of every seven Ohio manufacturing jobs is related to exports.

But we cannot blithely assume that those jobs will automatically remain in Ohio, indeed, we know better. Yes, American firms can go to Mexico now if they want to. But it is equally true that NAFTA will increase the security and attractiveness of investment in Mexico. I do not believe American Government policy should promote, encourage, or accelerate the movement of even more investment to Mexico. We need that investment, and those jobs, in Ohio and across this country.

Finally, I would like to draw my colleagues attention to a short piece by Aaron Bernstein in the Nov. 8, Business Week. In that article Mr. Bernstein summarizes succinctly and persuasively the main arguments which have led me to reluctantly conclude that I cannot vote for this NAFTA.

I want to see the Mexican economy grow and prosper. I want the Mexican standard of living to improve to the point where it is equal to our own. But the process should not be one that

risks further reducing an already hard-pressed U.S. standard of living, nor seriously risks the loss of U.S. jobs, to be regained only at some undefined future decade or generation.

I believe the goal of a greatly expanded Mexican economy, which I certainly support, can be achieved at less risk by increased emphasis on United States/Mexican negotiations along the GATT lines, sector by sector and product by product. It may take a little longer—but it is more fair.

I ask that the Bernstein article be reprinted in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Nov. 8, 1993]

AN ANTI-NAFTA ARGUMENT YOU HAVEN'T HEARD

(By Aaron Bernstein)

For months, a media juggernaut has rolled over anyone who challenged the North American Free Trade Agreement (NAFTA). That's because economists have won the day by repeating their graduate school lessons like a mantra: History shows that free trade is good, so NAFTA will benefit the U.S. economy. Those who say otherwise are dismissed as ignorant or irresponsible.

But the argument overlooks the treaty's biggest impact, which won't be on trade but on investment, mainly by U.S. companies in Mexico. Most studies rely on the 19th century theory of free trade, which assumes capital doesn't cross borders. Result: The studies miss the drain of U.S. investment dollars—which began several years ago in anticipation of the pact's becoming law.

Some quick arithmetic suggests that investment lost under NAFTA could outweigh potential gains from increased trade. "Most economic models of NAFTA don't look at capital movements," says Edward E. Leamer, a trade economist at the University of California at Los Angeles. "And it might give a different answer as to whether NAFTA is good or bad for the U.S. work force if they did."

NO ONE HAS LOOKED

Indeed, of 19 NAFTA forecasts reviewed by the Congressional Budget Office (CBO), just five looked at the issues. Four of these assumed—bizarrely—that any investment surge in Mexico would come from somewhere other than the U.S. The only study delving into the issue, by Robert K. McCleery, an American economist at Kobe University in Japan, predicted that NAFTA would displace about $2.5 billion of investment from the U.S. to Mexico annually.

What does that mean for U.S. jobs? McCleery doesn't ask, because he assumes the U.S. economy will fill in lost jobs with new ones. But Georgia State University economist Donald Ratajczak figures that $1 billion of U.S. investment generates about 30,000 jobs. Assuming a $2.5 billion annual capital outflow, that would mean 375,000 potential new jobs lost over five years—more than wiping out the 170,000 gain that Gary Clyde Hufbauer and Jeffrey J. Schott of the Institute for International Economics in Washington predict will occur in five years if NAFTA passes. Bruce G. Arnold, the economist who wrote the CBO paper, acknowledges that investment outflows could wipe out potential job gains from NAFTA, but he admits that "no one has looked at it much."

The pro-NAFTA argument rests on some shaky assumptions about exports, too. Hufbauer and Schott, like most others, assume that higher exports are a net increase for the U.S. economy. But the recent export surge to Mexico wasn't fueled by Mexicans on a spending spree. Some 37% of it went to *maquiladoras*, which ship most of their output right back to the U.S., according to a recent General Accounting Office study. That's not a net boost to U.S. gross domestic product—it's production lost to another country.

Moreover, the CBO found that a further third of U.S. exports to Mexico consisted of capital goods. If much of this money comes from U.S. companies closing plants at home and setting up new ones in Mexico, these exports aren't a net gain for the U.S. either.

Lets take an example: Say General Motors Corp. shuts an Ohio plant that had cost $1 billion to build and that employs 30,000 people. Then, it builds a factory in Mexico, buying $1 billion of equipment from U.S. makers. Hufbauer and Schott figure the economy will be swelled by $1 billion in new exports—enough, they estimate, to create 19,600 new jobs for American workers. But the investment and 30,000 jobs lost in Ohio are left out of the equation.

Trade theory is convincing—about the benefits of increased trade. But it doesn't address what's happening between the U.S. and Mexico, which are merging their economies. If the effects of integration overwhelm the trade gains, the U.S. could be the loser. And economists simply don't pay enough attention to that possibility.

Mr. PRESSLER. Mr. President, I once again rise in strong support of NAFTA. I applaud the administration in vigorously pursuing passage of NAFTA this year. I do have serious reservations regarding the impact of the side agreements to NAFTA and the commissions and committees that the side agreements will create. While I supported efforts to delete the side agreements from the implementing legislation, their being part of this bill should not defeat the agreement.

Approval of NAFTA, and having it operative next year opens the door to further gains in world trade negotiations for a new GATT. Defeat of NAFTA now could place unnecessary roadblocks to completing the Uruguay round. This should not happen. I look forward to NAFTA becoming operative. I intend to work with the administration to pursue even more trade opportunities for the United States under a new GATT Agreement.

Why do I take such strong interest in NAFTA and GATT? that's easy: Agriculture is my State's No. 1 industry, contributing nearly $14 billion to it's economy. Growth in the agricultural sector is essential to South Dakota's future. Exports are crucial to that growth. In 1992, South Dakota's agricultural exports totaled nearly $900 million. Many of these exports are going to our neighbors to the north and south. As much as 65 percent of South Dakota's wheat production is exported overseas. Maintaining and expanding foreign market opportunities is vital to economic growth to South Dakota's farmers and ranchers.

Many small businesses in South Dakota also stand to make significant gains from NAFTA. These range from mining operations, clothiers, manufacturers, electronics, bakeries, financial institutions, computers, service industries—all are in support of NAFTA.

A bright economic future for South Dakota depends on: First, increasing exports of U.S. agricultural and small business products; second, eliminating nontariff trade barriers and significantly reducing the use of unfair export subsidies; and third, a level playing field in the world trade arena.

History has taught us that economic growth is attained through freer trade. The United States stands to make significant gains from NAFTA. It should be approved.

Mr. HATCH. Mr. President, today I am going to depart somewhat from the types of speeches we have heard on this floor both for and against the North American Free-Trade Agreement [NAFTA]. This past Thursday, I offered my own analysis, rooted in the statistical data that has been provided from CBO and other sources that Congress routinely accepts as reliable. NAFTA is clearly the most extensively analyzed, hotly debated, and openly negotiated trade agreement in the past 60 years.

Today, I want to look somewhat beyond NAFTA, but, I first want to review what I believe it will take to make NAFTA work. And I'm taking this approach because I feel a strong obligation to the many opponents of NAFTA. While I disagree with their arguments, many of which were cast in fear of the unknown, I never doubted that we would have to make the case.

I have also been influenced by a statement made by the former Office of Technology Assessment Director, Dr. John Gibbons, a distinguished physicist who is now Director of the White House Office of Science and Technology Policy.

In the foreword to the 1991 OTA study entitled: "Competing Economies," Dr. Gibbons wrote:

> A test of [our] national competitiveness is whether standards of living improve while world market share holds steady or increases. The United States is failing on both counts.

Mr. President, NAFTA will force us to review our national attitude toward trade and toward the private sector as well as public sector machinery that will determine its success or failure.

NAFTA IS A LANDMARK EVENT IN U.S. FOREIGN POLICY

In many ways, NAFTA will influence hemispheric economic relations in much the same way that the North Atlantic Treaty Organization [NATO] influenced regional security. I predict that a hemispheric economic alliance will emerge from the rather rough beginnings of NAFTA in much the same way that NATO's 15 member alliance emerged from the smaller Brussels Treaty.

And, NAFTA will expand for much the same reason: the American people are awakening to a broader regional responsibility as well as opportunity to subdue a threat.

Quite obviously, this threat is not the military type of threat that prompted NATO's development. Rather, our commitment to NAFTA derives from the need to secure and promote our own prosperity through trade participation, rather than isolation.

We recognize that standing idle in our own hemisphere will create a vacuum of economic opportunity that will quickly be seized by our trading partners elsewhere. I hasten to add that even Canada had begun negotiating a separate free trade agreement with Mexico in the event Congress failed to support NAFTA.

THREE CRITERIA TO GUIDE NAFTA'S SUCCESSFUL IMPLEMENTATION

Mr. President, let me suggest three considerations that we must make for guiding the United States into the successful implementation of NAFTA.

First, our national trade philosophy must provide the values which are imbedded into our trade practices.

Second, we need a sound policy to guide government as it regulates, restricts, promotes, or influences trade in any other way.

Third, we need to inculcate a spirit of enterprise in our business community, motivating them to be competitive, even aggressive, in seeking markets aboard.

NAFTA WILL PROVIDE THE FRAMEWORK FOR CHANGE

Mr. President, let me address the first consideration, our economic philosophy. NAFTA is spawning an important theoretical variant to American economic philosophy. We are entering into a unique type of economic cooperation that will almost certainly be found throughout the hemisphere within a generation.

NAFTA will provide trade reforms that will lift all boats with a rising tide of prosperity. I believe this will occur through maximized participation by businesses of all sizes.

In this regard, NAFTA promotes many fundamental principles of U.S. economic philosophy, such as antitrust. We did not put NAFTA in place solely for large, so-called multinational corporations. It is not intended to give large oligopolistic companies great marketing power. On the contrary, NAFTA designedly shares market power with U.S. businesses of all sizes.

In this sense, NAFTA will allow businesses of all sizes, if I may repeat myself, to find new conduits for products, services, capital, technology, management, environmental improvements, and even new business partners.

Mr. President, we have seen the rest of the world adopting the free market system with enthusiasm. This accounts in great part for expanded trade, which occurs best in this type of market environment. NAFTA is built upon the free market philosophy, of which the United States is the ideological champion. As NAFTA expands, hopefully to integrate the economies of Chile, Argentina, Colombia, Uruguay, Ecuador, and others, it will also expand the inherent power of the American economic philosophy and the policies that underscore it.

GOVERNMENT POLICY MUST ACCOMMODATE NEW TRADE PRIORITIES

Mr. President, few would dispute the likelihood that it will be the U.S. economy that will drive NAFTA. Our economy will also, therefore, drive closer hemispheric cooperation.

Our leadership will depend on more than just economic clout. We must show moral leadership. This means that our Government policies must be fair to all parties.

Without question, the United States will enforce its own domestic trade laws to deal with unfair trade practices injurious to the interests of our business community. There was no support in Congress from any quarter to weaken our existing trade statutes, such as the section 301 antidumping protections, during the NAFTA negotiations.

But, like any successful neighborhood businessman knows, we must practice the "golden rule" in business. We must assure our trading partners that the same sense of fairness will be applied in resolving disputes brought either in the U.S. court system or on the NAFTA dispute resolution panels on which U.S. representatives will sit. At the same time, we will expect nothing less from our NAFTA partners.

Government policies influence trade in other ways. We need to take care that this influence is not destructive. I plead with my colleagues to incorporate an enlightened sense of purpose in the laws that we write, the guidance we provide the executive branch, and the behavior that we display on trade matters. More specifically, this means, among other things:

We should be tolerant of different languages, customs, and cultural attributes. They may complicate trade at the outset, but such differences can be overcome.

We must learn to work with the domestic economic policies, practices, and institutions of our trading partners.

We must cause our Government's massive and complex trade bureaucracy and machinery to exercise restraint. We should avoid oppressive Government regulations that substitute frivolous legal formulas for policies that produce economic gains.

We must deal directly with one particularly compelling fact: Foreign trade is a form of foreign policy that is conducted largely by private businesses. This will be a major readjustment for a country, like ours, whose foreign policy over the past half century has been dominated by national security and particularly defense interests.

NAFTA WILL PROMOTE A SPIRIT OF INTERNATIONAL ENTERPRISE

Finally, Mr. President, I believe NAFTA, like no other trade agreement in our history, will motivate our business community toward the international marketplace. Let me provide several reasons for this observation.

First, if I may briefly indulge in theory, economists have long used the simple method of "factor mobility" to distinguish between foreign and domestic trade. In domestic trade, major factors of production, such as capital and technology, move within a country. In international trade, they move between countries.

The United States has been a country blessed and endowed with ample resources and a huge domestic market. However, since World War II, our share of gross domestic product [GDP] devoted to foreign trade has risen slowly until the late 1970's when its growth accelerated to the current level of somewhere between 11 and 14 percent.

This reflects the fact that the rest of the world wants what we have. Resources are in increasingly short supply in many parts of the world; therefore, there are ready markets for U.S.-produced goods and services. For the United States, foreign trade is a source for the capital we now need to carry our growing debt burden.

As we have learned twice in our history, once after the industrial revolution—from Britain in the late 1800's—and again more recently from Japan, better manufacturing management technologies and methodologies can be found outside the United States. In both cases, we adopted the changes.

Most recently, we have seen U.S. worker productivity move from a position of stagnation in the late seventies to world leadership today. The adoption of many foreign management ideas and technologies, modified to suit our needs, have thrust our productivity to a level of five times that of Mexico and many times that of every other country in the world. This will be a major source of our hemispheric leadership—our neighbors, especially Mexico, expressly seek our technology through these trade agreements.

Second, competition drives innovativeness, as business knows well. However, there are three additional steps that U.S. businesses will have to take to penetrate Mexican, Canadian, and the other hemispheric markets over time.

First, they will have to adapt to foreign consumer needs. Automobiles must reflect foreign safety standards or emission controls and foods may have to be spiced to foreign taste, for example.

Second, businesses will have to adopt new operational styles that suit markets in which they hope to have a presence. This will mean complying with investment and banking laws, and other practices that will have to be learned and perhaps even begrudgingly accepted.

Third, businesses will have to acculturate themselves to culture and customs as they affect operations in a Latin American country in a way that will make the U.S. business person a welcome, rather than a feared partner.

Mr. President, all of these things add up to unprecedented opportunity for the United States if we approve NAFTA. It is a framework for learning, for prospering, and for expanding our trade horizons.

Mr. KEMPTHORNE. Mr. President, since I came to the Senate in January of this year, I have made a point of thoroughly investigating the provisions of the North America Free-Trade Agreement and its side agreements. I had said during my campaign for this seat that I would reserve comment on NAFTA until I saw the final document. I was criticized back then by those who said that NAFTA was an agreement set in concrete. They said it could not be changed. Since then I have been proved right by the modification of NAFTA by at least two formal side agreements and numerous letter agreements. In fact lately, NAFTA has looked less like it is set in concrete that it has looked like a moving target. Side agreements on sugar, wheat, citrus, beef, cucumbers, lettuce, celery, bell peppers, tomatoes, wine and peanuts have been negotiated in just the last 2 weeks. The cost of one NAFTA vote was $450 million for the North American Development Bank. We will not know the cost of NAFTA for weeks or years to come as the slick side deals bought and paid for with pro-NAFTA votes come to light. If a vote has to be bought in this way, NAFTA, the product, must not be all it's advertised.

NAFTA is more than just a trade agreement. If NAFTA were just a trade agreement it would simply eliminate trade tariffs and barriers, expand markets and create jobs. If NAFTA did just, I would strongly support it. But NAFTA is not just a tariff cutting bill. NAFTA creates new layers of international bureaucracy.

Throughout the year, I have consistently stated that if the interests of Idaho were not well served by the treaty, I would feel compelled to oppose the treaty on that basis alone. At the time, I was referring to an adverse impact the treaty might have on particular Idaho industrial or agricultural groups or commodities. However, after taking a much closer look into NAFTA, there is an obvious defect in the agreement so basic and so fundamental that its seriousness must outweigh other considerations. I'm concerned the NAFTA treaty will fatally compromise the sovereignty of Idaho. I cannot, and I will not, vote to approve NAFTA if it infringes on the sovereignty of the State of Idaho.

Although the NAFTA agreement provides that the agreement itself cannot supersede State law, State laws in violation of NAFTA will be challenged by the United States if the State law is inconsistent with NAFTA. Although the NAFTA agreement itself does not overturn any conflicting State law, the United States has an obligation to Mexico and Canada to take all necessary measures to bring State laws into conformity with the agreement. The implementing legislation specifically authorizes the Federal Government to challenge any State law which conflicts with NAFTA. Mexico and Canada, or any national of those two countries, will have an opportunity to challenge a State's acts before the Councils for the Commission for Labor and Environmental Cooperation. Not much attention has been focused on these trinational commissions created by the side agreements. The United States, Mexico and Canada will be represented on each commission, depending on the side agreement, by the EPA Administrator or the Secretary of Labor. Within the Environmental Side Agreement the range of issues the council may consider is far reaching, from "promoting public awareness" about the environment to "approaches to environmental compliance and enforcement." The council is to work for the continued improvement of environmental laws, and to do so without reducing levels of environmental protection. Within the labor side agreement, the council shall cooperate to promote activities regarding issues as varied as the "formation and operation of unions" to "occupational safety and health" and "social programs for workers and their families." While it is hoped that most decisions are to be by consensus, two governments could outvote a third.

Idaho will have no right to represent itself or participate in the defense of her own acts before the council. A State or local governments only allowed participation will be as a result of a United States request for information.

State governments should have a greater degree of autonomy than is reflected in this side agreements. If a state law is in conflict with NAFTA but the relevant State government can make a case for its retention, the law should be retained and should be exempted from the agreement.

A five-member arbitral panel can declare that State and local acts violate NAFTA and the panel may impose monetary sanctions against the United States. We can assume the United States will seek to pass on the cost of that monetary sanction to the individual State or local government. I am concerned that the United States will want to recover from Idaho, a penalty imposed against the United States by the arbitral panel, in cases where the State disagrees with the interpretation of a State or Federal law or regulation. Legitimate differences in interpretation could be wrongly labeled as a failure to enforce an environmental law. Language should be included which prohibits the Federal Government from recovering a fine or other penalty where an interpretive dispute or a constitutional question exists.

I believe the administration should guarantee that NAFTA enforcement actions will not be used as evidence and should be inadmissible in any Federal proceeding against a State or local government. This is especially needed since under the existing agreement States are denied a reasonable opportunity to be heard and evidence of such a decision would have an unreasonable prejudicial effect.

States like Idaho will be denied the constitutional right to establish stricter regulations and policies than are imposed by the Federal Government. We will have no control over our own State product standards and regulations, pesticide regulations, chemical bans, natural resource management policies, toxic waste restrictions, or sustainable and organic agricultural rules. Right to work laws could be challenged as inconsistent with NAFTA's goal of "upward harmonization." Since any NAFTA member could challenge another country's laws with respect to an issue they deem "denies economic opportunity," litigation could soon bog down Federal and State economic initiatives.

I believe the United States should seriously reconsider any agreement which gives up United States sovereignty to any multinational group that will place the needs of international trade over the interests of the American people.

These concerns are not simply the concerns of one Senator from Idaho; they are shared by many. I cannot lightly dismiss the sovereignty of the Federal Government or disregard the 10th amendment to the Constitution and the power within it which is reserved to the States. I cannot, and I will not, vote to approve NAFTA if it infringes on the sovereignty of the State of Idaho.

Idaho, as a state with magnificent natural resources, suffers from tough environmental regulations that stem from vaguely worded laws. Idahoans do not want any more vaguely written environmental laws that cannot be interpreted, implemented or enforced. Idahoans do not want Mexico and Canada telling them how to protect their land. And Idahoans do not want the EPA Administrator to be the sole person solely looking out for Idaho's interests in an

international environmental protection commission.

Mr. THURMOND. Mr. President, in all my years of service in the U.S. Senate, I do not remember such a lively debate on a trade matter. Over the last few weeks, my office, and I am sure that of every other Senator and Member of Congress, has been inundated with information and calls about the North American Free-Trade Agreement (NAFTA). People on both sides of this issue have been very vocal in expressing their opinions. However, from all this information and rhetoric, it appears to me that no consensus exists as to whether this is a good or bad agreement.

Proponents and opponents both have convincing arguments to support their position. In general, businesses think Mexico has great market potential, and that without some of the current trade barriers which deter trade, United States companies can compete and sell more goods in the Mexican marketplace. However, those opposed to NAFTA feel that the Mexicans do not have the necessary resources to purchase more United States goods, and that the United States will lose jobs.

Mr. President, many problems currently exist in Mexico which need to be addressed before we accept this trade agreement. They have low wages; few, if any, worker safeguards; and severe environmental problems. Once again there are differing opinions as to how NAFTA will affect these situations. Proponents of this agreement feel that NAFTA will help increase the wages and worker standards in Mexico. Opponents feel that these problems will continue and become progressively worse with NAFTA.

One of the most important industries in South Carolina, the textile and apparel industry, is divided over the merits of NAFTA. The arguments this industry has are basically the same as for any other industry. For example, some of the companies feel that the rules-of-origin provisions included in NAFTA help ensure that only the United States, Canada, and Mexico will benefit from the passage of this agreement. Further, supporters of NAFTA feel that the 88 million people in Mexico would purchase many United States produced goods. However, with cheap, abundant labor, it is felt that Mexico would take a sizable portion of this industry away from the United States.

My State is very divided over NAFTA. Many workers feel that they might lose their job to lower paying Mexican workers if this agreement is passed. Further, they feel that many problems must be addressed before we enter into a trade agreement with Mexico.

After careful consideration, I have concluded that if NAFTA is adopted now, this action would be detrimental to the economy of my State and result in the loss of jobs to the working people.

Mr. President, I shall vote against NAFTA and stand with the workers of my State, and hope they will not be hurt, regardless of the outcome.

Mr. BRADLEY. Mr. President, I want to say that I believe that the opposition to NAFTA is truly responding to the legitimate frustrations and fears and worries of millions of Americans. I also believe NAFTA is the wrong target for those angers and frustrations and, indeed, it has become a lightning rod for them.

Mr. President, no consideration of NAFTA is possible until we begin to see what our predicament is. I think we are in the midst of four economic transformations:

The end of the cold war, the economic effect of which is to drop the number of people working in the defense sector from 7.2 to 4.2 million.

Two, the gigantic national debt that went up from $900 billion to about $4 trillion in 12 years, the result of which was to turn the real estate boom into a real estate depression.

Three, the knowledge revolution. The introduction of the computer into the work force had a profound effect in reducing the number of people working. Steelworkers in 1979 were about 721,000. This year they are 374,000, although we produce as much steel and import less.

And four, the explosion of markets in the world. Three billion more people in the world markets today as the walls of communism, protectionism, and authoritarianism have fallen. Three billion more potential customers for American goods, 1 billion more workers producing tradable goods competing with our workers. Indeed, in the last 20 years, 60 percent of the garment industry, largely because of the competition, has gone to Asia.

Mr. President, a lot of people have lost a lot of jobs and are continuing to lose jobs because of these four economic transformations. I believe it is important that we are sensitive to their needs. I believe organized labor is responding to their needs. And in the tradition of those of us who believe the trade union movement has played an enormously important role in our country and in the world, I believe we should assure adequate health care, lifetime education, and pension security to those working Americans who have lost their jobs and those who will lose their jobs from these transformations.

I know that many of my friends in organized labor disagree with me on NAFTA. They have waged a vigorous fight to defeat it. I respect them greatly. They have legitimate frustration with the job losses of the last decade. Every day they have to deal with the plight of lost jobs, lost health insurance, lost pensions. I share with them a desire to create jobs and take care of those who've worked hard everyday of their life to earn a wage for their families and make America a better, stronger Nation.

But, Mr. President, to defeat NAFTA solves none of the problems caused by the four transformations. To defeat NAFTA won't bring back the cold war or stop the use of computers or shrink the world market or reduce the Federal debt. To deal with the effects of these transformations requires a national effort—an economic secure platform comprised of health care, lifetime education, and pension security that will help our workers ride the currents of these transformations without being destroyed until they get a new job. But the morning after the tears of compassion have dried up, what people want is a path to a new job.

And, Mr. President, passing NAFTA is part of an overall solution. Why do I say that? Because export growth in jobs is absolutely essential. From 1983 to 1989, export jobs in the United States went from 3.8 to 6 million. In my State of New Jersey, they went from 133,000 to 199,000 in just 6 years. Exports are one of the few forces that are creating jobs. Moreover, export jobs earn 12 to 17 percent more than other jobs.

Mr. President, what NAFTA does is generate export jobs. Over a 10-year period it eliminates tariff and nontariff barriers in manufacturing. Over a 15-year period it eliminates tariff and nontariff barriers in agriculture. It locks Mexico into the free market reforms that were initiated in the 1980's and it gives the United States access to a market of 90 million people on a preferential basis.

Mr. President, one of the overlooked aspects of this is that the Mexican economy is only 23 percent manufacturing and is 60 percent services. American companies are already in Mexico in manufacturing because that is the only way we could get access to sell anything in Mexico. We had to build it there because they had such high tariff and nontariff barriers.

But even then when United States manufacturers were producing in Mexico for a Mexican market, our service providers were denied access to that Mexican market. And the reason that is relevant, Mr. President, is that the number of people working in the United States in services in the last 20 years has skyrocketed, and the number of people working in manufacturing has plummeted. In 1952, 34 million people were working in manufacturing; today that number is 17 million people. In 1952, 59 million people were working in services; today there are 79 million people. The reality is we are opening up the Mexican market not only to United States manufacturers but precisely in the sector in which we have the largest number of people working—services.

Let us just go down the list of where some of these jobs are going to come from: both manufacturing and services.

Autos: 60,000 autos exported to Mexico in the first year of NAFTA that backs up to 10,000 to 15,000 American jobs according to the Department of Commerce.

Agriculture: Corn growers in Illinois, Iowa, and Indiana, producing 150 bushels an acre will be competing with corn growers in Mexico who produce at 35 to 40 bushels an acre. No contest. One company, ADM, says 9,500 additional jobs will be created as a result of this.

Textiles: As I said, 60 percent of the garment industry left and went to Asia. They did not go to Mexico. They went to Asia. If 10 percent of that production came back to Mexico, it would generate about 1 billion yards of demand for textiles, and create about 100,000 jobs in the textile sector, which is a higher wage sector than the garment sector.

Heavy equipment: Caterpillar sold 5 tractors in Mexico in 1987; now it sells 1,000 tractors and its sales are increasing every year by leaps and bounds. In 1991, General Electric had sales in Mexico of $1.45 billion, three times the amount that it exports back to the United States. Over 10 years, GE sees a market of $34 billion for power generations alone. These are high wage manufacturing jobs.

In addition, there are tens of thousands of jobs in the service sector.

Mr. President, there are real jobs in the service sector, 60 percent of the Mexican economy, and 79 percent of the American employment. For example:

Construction: Ryland Homes says it is going to get a part of President Salinas' program to build 320,000 homes in Mexico. American architects and engineers and plasterers and American steel and sheetrock and windows will be needed in Mexico.

Transportation: Union Pacific & Burlington Northern predict an increase in business of 15 percent annually in traffic between Mexico and the United States. There is an old saying in Mexico. Back in the early 20th century, one leader in Mexico said "Between the United States and Mexico should not be the sound of a locomotive, but the sound of a desert." That was the kind of suspicion. That is changing. Union Pacific & Burlington will be connecting our countries.

Oil and gas: For the first time we will be able to get in; Dresser Industries, Solar Turbines, big and large companies—$20 billion in demand, over 10 years.

Intellectual property for the first time is protected; 75 percent of the worldwide share of computer software is the United States. One company, Microsoft, increased sales in Mexico 100 percent in 1992 and 200 percent in 1993 with employment up 300 percent for Mexico and Latin America.

Pharmaceuticals. One company in my State says with the NAFTA, they will increase employment by 800 jobs. In film distribution, a major growth industry, there is no parallel in the world to the United States industry; it is finally protected and able to sell into Mexico.

Lennox China. They predict that in 4 years there will be a dramatic increase.

Insurance in Mexico is growing at 20 percent a year; 3 percent a year in the United States. The average Mexican spends $30 for insurance; the average American spends $1,950. That is a major growth market.

Finance. Beneficial Finance tells me—a New Jersey company—5 years after NAFTA is in effect, they will have opened 50 offices in Mexico and each will support a job in New Jersey at $40,000 to $50,000 a job.

Environmental technology. Companies like Brown and Caldwell in California will be cleaning up the environment, creating jobs in the United States. M&M Mars in New Jersey sales will go from $30 to $200 million.

Mr. President, what about the jobs and small business? NAFTA will give small businesses access to the Mexican market that because of local production, investment rules, and export requirements it could never get otherwise.

Mr. President, I will submit for the RECORD, and I ask unanimous consent to have printed in the RECORD, a list of 30 different small businesses in the State of New Jersey that deal with earrings, printing inks, paint tools, pressure valves, and vents that see Mexico as a major market.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NEW JERSEY COMPANIES PARTICIPATING IN NAFTA PRESS CONFERENCE

*Company, location, and products*

Ace Printing; Springfield, NJ; commercial printing.

Alcan Aluminum; Union, NJ; non-ferrous metallic powders and pigments.

Cavanagh; printing inks.

American Cynamid; Bound Brook, NJ; industrial chem's, pesticides.

Att/Bell Labs; Murray Hill, NJ; telephone circuit sys, r&d.

Bag Packaging; Roselle, NJ; bags, plastic sheeting.

Biach Industries Inc.; Cranford, NJ; tensioning eqp, hydro pmps.

Cooperheat Inc.; Piscataway, NJ; heat treating equip.

Croll-Reynolds Co.; Westfield, NJ; pollution control eqp.

Degussa Corp.; Ridgefield Pk, NJ; chem's, precious met's catalysts.

Dock Resins; Linden, NJ; specialty chemicals.

Fluets Corp.; Hillside, NJ; machine parts, lab equipment.

Fluoramics Inc.; Mahwah, NJ; switches and lubricants.

Gemco; Camden, NJ; pharmaceutical machinery.

Girard Equipment; Rahway, NJ; pressure relief vents, valves.

Harris Corporation; Somerville, NJ; semiconductors.

Haarmann & Riemer Corp.; Springfield, NJ; flavors & fragrances.

Hayward Pool Products, Inc.; Elizabeth, NJ; swimming pool & spa equip.

Henry Heide Corp.; New Brunswick, NJ; non-chocolate candy.

Hexacon Electric Co.; Roselle Pk, NJ; hand soldering equip.

Hillside Spinning & Stamping Co.; Union, NJ; consumer/commercial bakeware.

IKG Industries; Clark, NJ; steel and aluminum bar grating.

Lafollette Vineyard/Winery; Belle Mead, NJ; vineyard/winery.

Lermer Packaging Corp; Garwood, NJ; plastic vials, jars, & closures.

Lincoln Mold & Die Corp.; Roselle, NJ; molds for closures.

Lors Machinery; Union, NJ; resistance welders.

Mentor Graphics Corp.; Warren, NJ; software.

Merck; Whitehouse Sta., NJ; pharmaceuticals.

Dyna-Lite Inc.; Hillside, NJ; strobe lghts, electronic flashes.

Electrocatalytic Inc.; Union, NJ; electrochlorinating machinery.

Emcore; Somerset, NJ; crystal production machinery.

Fanwood Chemical; Fanwood, NJ; chemical marketing.

Red Devil Inc.; Union, NJ; hand tools, painting tools, caulking.

Reheis Inc.; Berkeley Heights, NJ; materials for pharmaceuticals.

Rose Art Industries; Orange, NJ; chalk, crayons, paint sets.

The Schundler Company; Metuchen, NJ; perilite & vermiculite.

Seagrave Coatings Corp.; Carlstadt, NJ; arcrylic, urethane, epoxy.

Sealed Air Corp.; Totowa, NJ; plastic foamed pkgs, cushioned envelopes and meat absorbent pads.

S.S. White Technologies, Inc.; Piscataway, NJ; flexible shafts.

Union Carbide; Bound Brook, NJ; plastic resins, solvents.

Van Leer Chocolate; Jersey City, NJ; chocolate candy.

Vanton Pump & Equipment; Hillside, NJ; rotary pumps & steel castings.

Walden Farms; Linden, NJ; salad dressings.

Micron Powder Systems; Summit, NJ; pulverizing and mixing mach.

Milton Can Co.; Elizabeth, NJ; metal cans and pails.

National Starch & Chemical Co.; Bridgewater, NJ; adhesive, starches, resins.

The Newark Group, Inc.; Cranford, NJ; paperboard.

QEI Inc.; Springfield, NJ; automation equipment.

Mr. BRADLEY. The point is that we are going to export a lot to Mexico. It is going to generate jobs in the United States. But is the corollary true? Does every import take an American job? No; that is not true. Look at one of our major imports from Mexico, oil, at 750,000 barrels of oil a day, the fourth largest supplier in the world. That counts as imports. Does that take U.S. jobs? No. It is necessary to create jobs in the United States.

One of the unlooked-at aspects of this agreement is that under NAFTA there will be more investment in oil

development in Mexico. I pose the question: Would you rather be more dependent on oil from Mexico or from the Persian Gulf? Under NAFTA, you will get the opportunity to be more dependent on Mexico.

We have some people opposing the agreement saying, "You are not going to sell a lot in Mexico; they are poor people."

The statistics: Mexicans purchase $458 per capita of American goods. More than any country in Europe and more than Japan. Aha, the opponents say. "What about the maquiladoras, send it down, send it back?" OK, take them out of the equation—$353 per person. That's still higher than the average European and almost as high as Japan at $395 per person.

The reality is that Mexico is the second largest manufacturing market for our goods, and it is the third largest farm market for our goods. There are 750,000 cars sold in Mexico every year—750,000 cars. People say Mexicans are all so poor. My question to you then is: Who is buying the 750,000 cars, projected to be one million by the end of the decade? Exports in the first year after NAFTA will be 60,000 into Mexico. At the end of the decade, it is expected to be 400,000 into Mexico.

Mr. President, regarding the Perot picture of Mexico—that shack with all of the poor people—I do not deny there are poor people, but there is also a middle class there. Some of the people in this body who make the assertion to the contrary, I would ask you to drive around Mexico City, Monterey, Pueblo, Guadalajara, Chihuahua, or Leon and look at the places—good houses, good cars. They take their kids to Disney World, and they send their kids to college. They eat well. They have good furniture in their homes.

The reality is that one-fifth of the Mexican population earns three-fifths of the income—not a good distribution of income, but we do not have much to brag about in this country either. But who can deny it is a market? There are 20 million people in the Mexican middle class. It is ready to buy American goods today.

Mr. President, the reality is that Mexico looks more like Texas than it does Guatemala. The reality is that $7 out of every $10 people in Mexico spend on imports, they buy from the United States. They are virtually dependent on the United States for machinery, staple foods, consumer goods, civil engineering, software, pharmaceuticals, on and on. And within 15 years, we will be interdependent, and that middle class will not be 20 million, but 50 million, and we will be selling them goods made by American workers that are earning the higher wage in the export sector.

Look at what happened as Spain and Portugal came into the European Community. Everybody's wages went up—in Spain and the rest of Europe. And that's the way it will be for Mexico and the United States. It would be a win-win situation.

Mr. President, in addition to the jobs that will be created in both countries, the NAFTA will make us more competitive against the real threats to U.S. jobs that come from Europe and Japan. By the time the NAFTA is fully implemented, Mexico, the United States, and Canada will have interdependent economies in which parts of the same products will be produced in each of our countries. The result will be a world product that will keep jobs in North American with the greater number of higher paying jobs in the U.S. Without NAFTA we will be less competitive.

So the agreement makes economic sense but it also makes political sense.

To see how far Mexico has come and how dramatically the political climate in Mexico has changed I ask you when you are next in Mexico City to visit the Museum of Intervention. That museum depicts all the times in Mexican history that the United States has intervened militarily. One can't leave that museum without a deep understanding of the anti-Americanism that has characterized Mexican politics for generations. An issue at the UN—Mexico voted against the United States. A help to Castro—Mexico gave it gladly. A United States initiative in Central America—Mexico criticized fiercely. Mexican politics reminded both the United States and Mexico at every turn about what divided us rather than what united us.

Now that has all changed. The Salinas regime has reached out for the first time in history to their big neighbors to the north. They have done everything we have asked of them to streamline their economy and they have begun to see that full political freedom cannot be far behind greater economic freedom.

I am not going to make excuses for the failure of Mexican democracy or the shortcomings of human rights enforcement. I believe a nation cannot call itself great until it is a democracy. Freedom cannot stop with a free market, it must also extend to politics and ultimately the transfer of power through elections that are transparently fair.

The next challenge for the next great Mexican leader is to bring fully representative democracy and competitive elections to the country of Mexico. The next great President will do for the political structure of Mexico what President Carlos Salinas has done for the economic structure. of Mexico. But that notwithstanding, is it better for us to be engaged or run away? I say it is better to be engaged.

Is it better to spit on the Mexican hand of partnership or is it better to take it and move forward? I say it's better to pass NAFTA and use our interaction with our partner to push toward more democracy and more adherence to human rights.

The labor side agreements give us ways to highlight, for example, the failure of Mexico to enforce it's minimum wage law. And if NAFTA had been in place in the 1980's it would have also given the Mexicans the right to highlight the failure of the Reagan administration to enforce United States labor laws. Under NAFTA we retain the right to file a section 301 action if worker rights are grossly violated. Through the increased consultation, we have a means to put pressure on Mexico to achieve changes in its trade union structure. If we reject NAFTA we have no clout. We become the intruding "gringo," who rejected Mexico. We lose our influence.

Do you believe that Mexico will be more or less democratic if we reject NAFTA? I say if we reject NAFTA Mexico will be less democratic. Its next leader cannot possibly focus on political reform because he'll have to deal with economic crises—a plummeting peso, return of inflation, capital flight and a desperate rush to attract capital by any means possible—not excluding a return to the desperate sweatshop-cesspool days of the 1980's maquiladora program.

With NAFTA the next leader can be a man who will have the political skill to take Mexico from a reformed single party state to a multiparty political power in which elections are open and free beyond question.

Although freedom is not complete yet, there is no doubt in my mind that economic freedom leads to political freedom. The only question is whether it will be aided by a commitment of the political leadership.

The old corporatist Mexico of government giving subsidies to monopolists who did what they wanted with workers and had to competition from abroad is over. Now the once monopolistic industry is many different companies competing to produce against United States and worldwide competition. That process leads to a fragmenting of the old labor movement and an emergence of independent unions or at least companies competing for talent by offering higher benefits to more talented workers so as to get higher productivity. Such a dynamic environment will produce greater prosperity and greater political dynamism.

But none of that can happen if we are not engaged on a day-to-day basis—engaged as a partner after passage of NAFTA. NAFTA is central to achieving a common Northern American democracy and a broadly accepted record of respect for human rights.

For some on this floor who oppose this agreement on labor rights grounds I cannot help but think back to the earlier 1980's when the international

banks had Mexico under their thumb, extracting a declining wage and bigger debt for a promise not to label Mexico insolvent. There was a time when Mexico was sending its export earnings to pay interest and not to improve the circumstance of Mexican workers. And what did many of today's opponents to NAFTA do then? Silence. Nothing. Third world debt was exotic and some of today's opponents of NAFTA who now make speeches on this floor had no interest in attacking the debt's impact on Mexico's workers. The case of the opponents of NAFTA would be stronger now if they had spoken up then. I wish they had been as vigorous in attacking the abuses of capital, then, as they are in defending the rights of labor, now.

But the reality of NAFTA will mean more openness in Mexico, more democracy, and a fine partnership in the pursuit of freedom and prosperity.

In terms of social policy I do not need to say more then that half the population of Mexico is under the age of 19. Does anybody doubt that with one million young Mexicans entering the workforce each year that if there are no jobs in Mexico they'll be heading north? Is there any doubt that when they head North they will be taking the jobs of minimum wage workers because as illegals they will work for less than the minimum wage? That integration and movement is taking place. If we defeat NAFTA it will explode, burdening social welfare education and health systems as far north as Chicago.

President Salinas has taken a historic decision to abolish communal farms, the so-called EHIDOS, which keep rural people poor and on government subsidies. That means that irrespective of NAFTA thousands will be leaving the farm. With NAFTA, some will move off the antiquated communal farms into agricultural that has a chance of exporting north, fruits and vegetables; or they will go to work in light industries, established by investment made possible by NAFTA. Without NAFTA these displaced farm workers will simply head north.

When fast-track passed I told the story of a small town named Decosse in Nueva Leon. 6,000 people, only 2,000 men. Most of the men had gone to the United States. They didn't want to be away from their families but they needed a job and trade barriers prevented that job from being in Mexico.

Mr. President, our daughter once spent a summer in Central Mexico on a service project in which she worked in rural villages doing work such as digging latrines and painting homes. On one day a Mexican worker was very kind to her and she asked what she could do to repay the kindness. The man said, "next time you see a Mexican in the United States, go up to him and say hello, because he is afraid." Mr. President, with NAFTA there will be less reason for Mexicans to live away from their families, work for below minimum wage, take jobs from the poorest Americans, and rise each day with constant fear as their companion.

In addition to the economic, political and social policy, Mr. President, I believe that NAFTA provides an example of how to lead in a post cold-war world. It shows that by being inclusive we can show a world looking for an example how to handle the social and economic tensions that exist in many other places. For example, where in the world does an advanced wage, high skilled country exist next to a lower wage, lower skilled country in which immigration pressures remain acute? The answer is Europe. Eastern Europe after the walls of communism came tumbling down now seeks closer relations with Western Europe. What does the West do—blocks exports from the East in most products where the East has a competitive advantage. Juxtapose that shortsightedness with the vision of NAFTA. Juxtapose the xenophobia of Europe with the openness of NAFTA. Juxtapose a Europe where increasingly nationality is defined by ethnicity and a North America where Canadians, Americans, and Mexicans come in all colors, all eye shapes and from many, many ethnic backgrounds. NAFTA says that Mexicans and Americans are part of the same Western tradition; that Latino culture has much to offer American culture; that there is no "other" in North America; that ethnicity does not define nationality.

In Europe they are putting up walls and not taking people in. They are highlighting ethnic divisions, not pluralism.

We have an opportunity to show how you lead in a post-cold war world by reaching out as a pluralistic democracy seeking unity with a neighbor. That is why this agreement is an historic opportunity that we must not reject. That is one of the reasons why it is a parallel to the purchase of Louisiana by Thomas Jefferson, or to the purchase of Alaska by Seward and Johnson, or to Harry Truman's decision to say, "We are not going to retreat to isolation, but we are going to reach out to the rest of the world."

So, Mr. President, I believe that NAFTA makes economic sense, it makes political sense, it makes social sense. It allows us to lead in a new way in a post-cold-war world. But I must say there is another reason that I feel a particular conviction about this treaty.

Some people have said NAFTA is the most important thing that happened to Mexico since the revolution. I agree with that. Other people say the difference between Mexico and the United States is the difference between 18th Century England and 15th Century Spain. To a certain extent I agree with that, although Mexico has its own unique culture and America is infinitely more diverse.

To me this agreement symbolizes something even greater than the economic, political, social, world leadership, and cultural advantages that I have spoken of.

The agreement tells a story. It is as if two brothers estranged from each other for many years will finally sit down together at the same table, sharing a meal and planning once again for their common future. It is as if they are starting to talk and clear up the misunderstandings of their estrangement even as they rediscover what they share that brings them together and gives their lives meaning.

I believe that a common destiny will be forged from this moment and this agreement in ways that we cannot even conceive and I believe it will enrich our culture and our society. That is why I think it is so terribly important that we pass the North American Free-Trade Agreement and get on about the business of building a better world.

## FARM-CITY WEEK

Mr. BURNS. Mr. President, we bring to a close the first session of the 103d Congress today and step back and look at things we have done all year as we move into a holiday season.

Mr. President, I rise today to remind this Nation of the week ahead which has been officially designated Farm/City Week, and it has been so since 1955. During this time of thanksgiving, we pause for just a moment in our hectic daily schedules, not to just say thanks but to reflect on just how and why we are the best fed and clothed Nation on Earth. Why we can feed and clothe ourselves and tons of food for the starving in countries like Somalia.

This coming week, most Americans will gather together with their families around the table of the traditional Thanksgiving meal. What is on that table will vary from home to home but I would say in the majority of cases will be the traditional turkey and all the trimmings.

This is truly a great nation of food producers. No other nation in the world has a good machine like it. No other nation, no other society on the face of the Earth has, at their fingertips, at the nearest supermarket or grocery store, the greatest volume of the most nutritious varieties of food for every appetite and every age. It is, for all this volume and variety, the safest and the most economical. This Nation spends less of its disposable income for their daily bread, this basic of all necessities for life, than any other nation on Earth. I ask all Americans or anybody else, can you challenge that?

Why is this so? American agriculture a long time ago had the vision and foresight to educate, to develop and use

new technologies, and a deep dedication to feed a hungry world.

Not only does this American farmer or rancher feed this Nation but the world. Agricultural exports are the bright and shining spot in our balance of trade. This country has always enjoyed an export surplus in agricultural foodstuffs. Food for peace and food given by this country to feed the hungry of the world is supplied by the men and women who are the producers and caretakers of our farm lands.

This Farm/City Week is to highlight this great industry. Though you may not consider yourself as a part of agriculture, think about it like this: If you eat, you are involved in agriculture.

Even though the statement is true, you just might be a little more directly involved than you think. After all 16 percent of this country's GDP is generated by agriculture, is the largest employer when taking into account the production and all the services that requires, processing and marketing, the transportation and distribution, financial services for all phases, one might conclude that all of us go about our way in feeding this Nation. In fact, agriculture is responsible for 21 million jobs nationally.

We are not the same Nation as we were some 50 years ago. We tend to forget at times that what we do and demand of our Government inhibits our ability to apply new technologies so we can produce food and fiber for a demanding and hungry society. Production agriculture is a fragile business. The elements, floods and droughts, pests and disease have more to say about how successful we are than anything we can humanly do. The use of new and developing technologies has allowed agriculture to cut the use of chemicals 20 percent since 1982, to cut soil erosion 90 percent on 36.5 million acres of conservation reserve program, to develop renewable and environmentally friendly products such as ethanol, soy ink, corn deicers, plastics from corn starch, high value oils, and the list goes on. In agriculture, every day is Earth Day.

There is a way we Americans can destroy this food machine. We can regulate, prevent the use of technologies, and do away with the infrastructure to develop new technologies. Since only 4.6 million Americans live on our farms and ranches—only 2 percent of our total population—and they are easily overlooked and outvoted in national policy debates. The U.S. population has increased 10 percent in the last decade but farm population has declined 12 percent.

There are more Americans that are third or fourth generation off the farm and have forgotten or were never informed on the basics of food production. I would have to tell my fellow Americans, there are some myths about food production. Ask the men and women on the land; they will be more than happy to visit with you.

So, as we gather this Thanksgiving, let us really give thanks for this wonderful food machine and this wonderful country, the United States, the men and women whose knowledge and expertise put this wonderful harvest in our kitchens. What you will see on your table represents everything that is good about America. It represents imagination, knowledge, risk, dedication, a faith in this great Nation, faith in a higher power, and good old hard work.

Let us give thanks for the hands that prepare the feast that is to come. Let us think of those who are not so blessed and share with them this bounty of 1993.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

## CONCLUSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask the period for morning business be concluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate resume consideration of North American Free-Trade Agreement.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3450) to implement the North American Free-Trade Agreement.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I will shortly make a statement on the North American Free-Trade Agreement, and I have been meeting with the distinguished Republican leader on how to bring this matter, and others, to a conclusion. He has asked for an additional about 15 minutes to discuss the matter with his colleagues and is now in such discussions. I believe it appropriate to accommodate that request. I hope to make a decision and to announce that decision to the Senate within about 15 minutes, on the time for a vote and what other matters the Senate will be taking up today.

Therefore, I ask all Senators for their patience. I understand the difficulty caused by the uncertainty, but I think the request for a period of consultation is a reasonable and appropriate one, and, therefore, I hope to have an announcement in the near future.

Mr. President, the Senate will vote on the North American Free-Trade Agreement. It is one of the most important decisions we will make in this Congress.

We have come to the end of a long vigorous debate on this agreement. The negotiations were concluded over a year ago. On December 17, 1992, President Bush, Prime Minister Mulroney, and President Salinas signed the accord.

Since then, the Senate, the House of Representatives, and the Nation as a whole have engaged in an intense debate over the issue. Almost every aspect of the text of this agreement has been examined and debated.

Congress has conducted many hearings, and there have been countless studies about the potential impact of the agreement.

There is no doubt that Congress and the Nation have both fully debated the North American Free-Trade Agreement.

Our country today stands at a crossroads in its economic development. Immediately after the Second World War, the American economy dominated the entire world. We had no competition.

Over the intervening 40 years, our economic growth has been strong, but so has the growth of our trading partners and competitors. Relative to the total world economy today, the U.S. economy claims a smaller share than it did during the 1950's and 1960's.

Our gross domestic product as a percentage of the global economy has declined from approximately 37 percent in 1950 to approximately 22 percent in 1992.

Those numbers by themselves do not convey much. But what they mean is that the United States, as well as the rest of the world, has become incomparably more prosperous in the last 40 years than it was in the preceding 40 years.

The economic miracle of the postwar world is that with growing international trade, every nation's economy has grown, human well-being has reached levels never before known to history, and the leading beneficiary of that trend has been our country.

We too often take our economic miracle for granted. We should remember that the growth we enjoyed came primarily from growing expanding trade: More American goods sold to Europe, to the Pacific nations, to Latin America meant more American jobs, more income to Americans, better choices for American consumers and growing national prosperity.

We could never have achieved our status today without selling to international markets. We will never sustain or exceed today's economic growth rates without access to international markets.

The future of our economy depends on our ability to respond to the demands of the global marketplace.

So we cannot turn our backs on opportunities in new and growing markets anywhere in the world. Our economic security depends on our willingness and skill at adapting to a rapidly changing global economy.

In our past, Americans responded to the challenges of change—the challenge of rebuilding Europe and Japan. Today's Americans are just as able as our parents were to respond to challenge and to reap rewards from new opportunities.

The realities we have to face today are different than those in the past. Capital, technology and information are all highly mobile today. Manufacturing plants can be easily reproduced in new locations. Computers have made it possible to use distant locations for many financial transactions. Capital itself flows readily in a free market to the most profitable investments.

These new facts of life have been taking shape and gathering speed throughout the past decade. International borders do not restrain the movements of the world's corporations. We cannot ignore that fundamental fact.

Rejecting this trade agreement will not change that fundamental fact.

The North American Free-Trade Agreement is an opportunity and a challenge to take advantage of that fact.

It offers economic opportunities for the future by starting the process of expanding markets in this hemisphere.

This agreement will create an economy of $6.5 trillion and 370 million people—an enormous market—whose purchasing power will grow as its prosperity grows.

Even without this agreement, Mexico is already one of our most valuable trading partners.

Our trade balance with Mexico was a $5.4 billion surplus in 1992, a dramatic improvement from a $5.7 billion deficit in 1987. Mexico is now our third largest trading partner.

Mexico is a promising new customer for United States goods and services, and its promise will only grow in the future as its citizens become wealthier and demand more choices and more products.

We have an opportunity to help speed up the expansion and wealth of this market by approving the trade agreement before us today.

Like every such agreement, it is not without flaws. Those who compare it with the United States-Canada Free Trade Agreement have a point, for that earlier agreement did have many flaws.

But rejecting the North American Free Trade Agreement will not remedy those flaws in the United States-Canada Free Trade Agreement. It would only reject a valuable new relationship with Mexico and preserve the status quo with Canada. I do not think this result is in the best interests of this Nation or my State of Maine.

At the same time, I understand the concerns many have expressed about environmental impacts, among others.

But this agreement links trade and environmental goals more closely than any previous trade agreement. The agreement itself, its environmental side agreement, and the United States-Mexico border plan will enhance cooperation on a broad range of environmental issues. In that respect, it does more to take into account environmental concerns than virtually any other economic agreement our Nation has signed in the past.

Environmental groups have long recognized the global interdependence of the environment we live in. They have sought international agreements for environmental cooperation.

That is why many prominent national environmental groups have expressed their support for the North American Free Trade Agreement. The National Wildlife Federation, the Natural Resources Defense Council, the World Wildlife Fund, the National Audubon Society, the Environmental Defense Fund, and Conservation International—all have endorsed this trade agreement.

These groups recognize this agreement for what it is: An opportunity to promote environmental cooperation among the countries of North America while promoting economic growth through trade.

But the issue of the North American Free-Trade Agreement transcends the broad economic opportunities provided to U.S. businesses and workers. It is more important than the promise of environmental cooperation with our neighbors.

This agreement will define the American role in the global economy and in world affairs well into the 21st century.

With the passage of this agreement, Congress affirms the leadership role of the United States in this hemisphere and around the world.

Our economy will reap the benefits of expanded markets in Mexico, the Caribbean, Central and South America. The United States and Mexico will work cooperatively to improve the border infrastructure, and all three nations will work to protect the environment of North America.

If we reject the agreement, however, it will send an ominous signal to the world: That the United States fears the challenges of this post-cold war global economy.

We must have the courage and the confidence to lead this country into the next century. We cannot reenter the past.

As I said at the outset, the national debate has been vigorous because this trade agreement does mean change, and in the post-cold war period, change has been both benign and malignant.

Downsizing in American companies as our economy strives for efficiency has seen many good, skilled American workers out of a job for the first time in their lives. Automation and improved computer technology has seen many jobs vanish as transistor chips perform the functions that once needed human beings.

It is no surprise that Americans fear the fallout of this economic change. They have a right to be wary, for too many times in our past, changes have come to our economy, have disrupted the lives and hopes of hundreds of thousands of families, and government has responded slowly, grudgingly, often inadequately.

That is a governmental response that cannot and will not be repeated. The pace of economic change is too swift, its dislocations too great, in today's world, for anyone to indulge the rhetoric of free markets as an excuse for governmental inaction.

The government which wishes to expand trade must recognize that it has a reciprocal responsibility to the people who risk the most from the immediate short-term effects of that expansion.

Those who favor the trade agreement, as I do, must acknowledge and accept the responsibility to remember that there is more than one step in this process toward a more prosperous world.

The first step is opening markets and freeing trade.

But the second, and equally important step, is to make certain that our own people do not disproportionately pay for the costs that are a part of every significant economic change.

I expect that when the Senate comes to debate the programs to help American workers adapt that every Senator who has supported this agreement will be equally strong in his or her support of helping American workers as well. It is our responsibility. I accept it.

We now must work together to prepare the U.S. economy for the challenges of the 21st century.

Our workers must be educated and trained so that the industries of the future will invest in this country.

We have to reduce the burden that health care places on American businesses—and on our global competitiveness.

This agreement is only one step in insuring that our Nation will have a strong and dynamic economy in the next century.

The Senate now will decide whether America will actively engage the challenges of this post-cold war period, or whether this Nation will reject new opportunities for the future. I believe that we must approve the North American Free-Trade Agreement to preserve and enhance the future of our people.

Mr. President, I yield the floor. I note the presence of the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, in just a few moments, maybe 20 minutes—my speech will not take that long—but all the talk will end and the Senate will join the House of Representatives in passing the North American Free-Trade Agreement.

My remarks will be brief. I think we have heard the debate; we listened to the House debate; we heard the debate for several months. My position in strong support of NAFTA is well known and there is no need to prolong what has already been a very lengthy debate.

I want to commend my colleagues on both sides of the debate. There are concerns on both sides of the agreement. Despite all that has been said or written about NAFTA in the past few weeks, the surveys reflect a lot of Americans, including many in my State, are still not certain what NAFTA is all about. So I want to take a few minutes to cut through the hype and the exaggerations and to talk straight with the American people.

Some of the opponents of NAFTA would have us believe that American negotiators were snookered, that somehow Mexico and Canada have fooled Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton, and that they have pulled the wool over the eyes of every living Nobel Prize economist and every living former Secretary of State, all of whom support NAFTA.

They want us to believe that the minute this agreement is adopted, the moving vans will be headed to Mexico, transporting American businesses and American jobs. I just happen to believe, instead of listening to these predictions of doom and gloom, the American public should listen to the truth.

Let me be clear in saying the truth of the matter is that NAFTA is not perfect. There will be a lot of flaws, there have been a lot of flaws discovered. There may be more. It will not solve all of our economic problems or protect every job. But nearly every unbiased expert who has studied the issue believes NAFTA will enhance economic growth and job creation in the United States. When you sort out all the charts and charges, and now the countercharges, and all the predictions that the sky is falling, you cut right to the heart of the issue, NAFTA comes down to one word, and that is leadership.

America has a choice. We can choose to be a leader in today's global economy, strengthening our relationship with our first- and third-largest trading partners, sending a message to other countries that America is open for business—America is open for business—or we can pass the baton of leadership to Japan and to Europe, close our doors to new markets and new opportunities, and resign ourselves to the future as an economic also-ran.

The answer is clear. NAFTA is right for America, and it is also right for my State of Kansas, where it will create new opportunities for our farmers, for our aviation industry, and for our manufacturers.

I ask unanimous consent that editorials from around my State in papers such as the Chanute Tribune, Wichita Eagle, Hutchinson News, the Hays Daily News, and Topeka Capital Journal be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, it is important to remember the battle for free trade and the economic growth and jobs creation it brings does not end with the passage of the North American Free-Trade Agreement. It is just the beginning.

A good agreement in the ongoing Uraguay round of the GATT talks will create many more jobs and raise our standard of living far higher than will NAFTA. As the Chanute Tribune pointed out, Mr. President, if we really want to create a lot of jobs in America, then we should stop burdening our small business men and women with more taxes, more mandates, more regulations and paperwork.

The Republicans stand ready to assist President Clinton in that mission just as we have assisted him on NAFTA.

I wish to end by commending those responsible for the passage of this agreement, and that includes President Reagan, who first advanced the idea of a North American free trade zone; it includes President Bush and Ambassador Carla Hills, who did the tough work of negotiating, and it certainly includes President Clinton and Vice President GORE and Ambassador Kantor who stood up to the threats of the protectionist elements in their party and who never let up their campaign in these critical last few days.

I am also very proud to congratulate my fellow Republicans in the House led by Congressman MICHEL and Congressman GINGRICH and 130 other Republicans who supplied the majority of the votes to pass the free-trade agreement in the House.

I think they have remained true to our historic commitment and philosophy of free trade, open markets, and job creation. We made the difference for one reason.

I remember my asking a former President, "What should I tell someone if they ask me why I am voting for NAFTA?" And he said without a pause, "Tell them you are doing it because it is the right thing to do."

It is the right thing to do. We are making the right decision. Again, I do not disparage any of my colleagues who have another view. I do not question their motives. This is a difficult vote, but in my view we are making the right decision by supporting the North American Free-Trade Agreement.

EXHIBIT 1

[From the Topeka Capital Journal, Nov. 19, 1993]

WHAT'S AFTER NAFTA?

Free trade is coming with or without the North American Free Trade Agreement. The important thing about its passage Wednesday night is what it says to the world about our commitment to it, and about the confidence we have in our ability to compete.

When the House approved NAFTA 234 to 200, a surprisingly wide margin of victory for the controversial agreement, it said loud and clear that America can stand up under global competition. It said our closest neighbors are also our closest trading partners. And it said the fears promulgated by the extreme opposition to NAFTA were mere poltergeists making unwarranted noise.

Indeed, the sun came up the next day, contrary to the picture painted by Ross Perot. But then, Perot predicted huge losses in the Gulf War and dozens of bank failures after last year's presidential election.

No, cool, rational thought carried the day. And, interestingly, approval of the North American trading bloc—which still must undergo final approval in Mexico and Canada—may bear pressure for freer trade elsewhere in the world. And that could be very healthy for the world's traders, chief among them the United States.

There should be other side benefits as well.

The Mexican economy should improve as trade escalates. Relations will most likely improve. Pressure from an emboldened capitalistic system should bring pressure to bear on the Mexican government to institute democratic reforms. And trade barriers, in a kind of economic domino effect, should begin to fall elsewhere.

President Clinton is to be congratulated for rallying support for the North American Free Trade Agreement. His tireless efforts have taken the nation one step closer to the 21st century.

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[From the Hutchinson News, Nov. 19, 1993]

NO MORE FEAR

The politics of fear was soundly defeated Wednesday night when members of the U.S. House of Representatives voted to approve the North American Free Trade Agreement, a pact with Mexico and Canada that will enhance the economic opportunities for Americans.

The vote was a majority victory for President Clinton and for this nation, which has finally reveled in and struggled through the contentious democratic process to enact a major trade agreement.

Nations watching the vote from afar must have wondered about the nonpartisan approach to this embattled legislation, a true product of the ebb and flow that is the hallmark of the democratic process.

Ironically, a Democratic president found himself successfully courting Republicans, who responded positively and voted for the good of the nation, rather than for a particular party. Special interests were unable to control this legislation and the mouthy Ross Perot, who would be king, turned out to be no more than a court jester.

The NAFTA victory clearly sets the nation on a course into the 21st century, boldly moving toward a tomorrow that offers a host of fresh opportunities.

Kansas farmers now have now have a broader market in which to sell grain, a solid trading bloc that stretches across the length of North America.

The president's victory also established this administration as having the courage of its convictions and the will and the skill to maneuver through the political nooks and crannies of Washington to secure a major win. NAFTA is not now wallowing in the mire of some bog to once again be regurgitated by a future president. Instead, it is about to speed its way through the U.S. Senate and into law.

Hurrah! Hurrah!

The word "winner" appears to be back in the American lexicon. It feels good to hear the word, and time will prove that the ayes in the House were right Wednesday and right for the economic future of the country.

Do something, we said shortly after this president narrowly won election. He has done something and it was a whale of a job. He deserves the country's admiration for showing leadership and tenacity against the purveyors of fear when it was desperately needed.

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[From the Hays Daily News, Nov. 18, 1993]

NAFTA'S MESSAGE MORE THAN TRADE

The best news about NAFTA's passage by the House may not be what the trade agreement does for trade with Mexico and Canada.

Instead, what may be best about it is the hope its passage offers that the U.S. government may work efficiently again.

For too long, NAFTA looked like it would go down to congressional defeat in what had become the routine fashion for many good ideas.

The pattern was there again. Organized special interest groups, including labor unions and some environmental organizations, trotted out their scare tactics.

Furious form letters from members of those groups, armed with a one-sided view of the issue and few real facts, piled up in congressional offices. Members of Congress began to fear their votes could cost them their seats.

That scenario has happened repeatedly in recent years, on gun control, Medicare and Social Security changes among other issues. It almost happened with NAFTA.

Organized labor trotted out every bit of its clout to try to defeat ratification of the agreement.

In the end, most Americans seemed to see them as just another special interest group, temporarily on the same side as some of the more radical environmental groups.

The administration took its case to the people by taking on Ross Perot and won a victory in public opinion by managing to portray Perot as someone with a special interest—the presidency and power—rather than a representative of the best interests of the entire nation.

The White House, handicapped in its fight for NAFTA by the traditional Democratic links to organized labor, worked with Republicans as well as Democrats to build support for the passage of the agreement.

What came out of all that effort was a surprising show of strength and unity on the issue.

Labor leaders, and Perot, are now trying to claim that the victory was won simply by bribery—the old way.

It doesn't appear that was the case. It looks like a rare instance in which Congress, the president and the American people managed to recognize that something is good for the long term future of this nation and to agree to do that something.

Now we can hope that such concern for the common good will be repeated soon on other issues.

[Editorials from the Wichita Eagle, Nov. 19, 1993]

NAFTA: APPROVAL OF TRADE AGREEMENT MEANS UNITED STATES MUST GET COMPETITIVE

Approval of the North American Free Trade Agreement could be seen as the economic equivalent of the collapse of the Berlin Wall. Just as the end of Soviet-style communism fundamentally changed global politics, NAFTA represents the destruction of trade barriers.

In effect, by its pro-NAFTA vote Wednesday, the U.S. House launched the United States into the post-Cold War economy.

Considerable credit for the remarkable, far-sighted vote goes to President Clinton, who promised in his election campaign to be a new kind of Democrat, a leader more concerned about the country's future economic prosperity than in appeasing powerful Democratic labor constituencies.

Indeed, the president was part of one of the most intriguing political coalitions in recent congressional history. NAFTA would not have passed without considerable Republican support, made possible partly by the strong leadership of Rep. Newt Gingrich, R-Ga., who on most issues is poles apart from the Democratic president.

Mr. Clinton and Mr. Gingrich share a vision of an America aggressively competing in global markets. It's an America that rejects paranoia and protectionism. It's an America that rejects paranoia and protectionism. It's an America that sees the free-market economy as the best way to improve the lives of people around the world. It's an America that welcomes the challenge to produce the best products available in the world.

Further to his credit, the president is not stopping with NAFTA. Shortly after the vote, he flew to Seattle for a meeting with Asian leaders to informally discuss even broader agreements to enhance trade around the Pacific Rim. The president also promised to seek a successful conclusion to the seemingly endless negotiations over a new General Agreement on Tariffs and Trade, which could generate a new wave of global economic growth and opportunity for the United States.

Yes, as NAFTA opponents warned, there will be pain as the country undergoes a fundamental economic transformation. That makes it vital for Congress to enact such legislation as the School-to-Work Opportunities Act, which would offer young Americans the skills needed in a global economy. Congress also needs to ensure job training for Americans displaced by the new economic realities.

NAFTA is the cornerstone of a new American economy. The transition from the old to the new will be complicated and often difficult. But the unexpectedly large pro-NAFTA vote in the House showed that America will be a major player into the emerging world economy. The next challenge is to ensure that the United States will be a winner in the new game.

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HORRORS: CRITICS OF NAFTA DEAL-MAKING NEED A REFRESHER COURSE IN CIVICS

Ross Perot and labor leaders profess to be horrified that President Clinton made trade concessions to certain House members in return for yes votes on NAFTA. These good folks need a refresher course in civics.

Trading votes for concessions isn't evil. It's the only way government can function. This is a representative democracy where legislative action requires a majority. To create bills capable of attracting majorities, lawmakers must work compromises.

In the case of NAFTA, several House members—including Floridians worried that competition from Mexican growers could harm their state's tomato growers—persuaded the president to protect certain fruits and vegetables from Mexican competition for the first few years of the agreement. In return for that concession, those representatives agreed to vote yes.

Considering that Florida tomatoes eventually will have to compete for buyers head to head with Mexican tomatoes, this wasn't an unreasonable concession for Mr. Clinton and the pro-NAFTA forces to make. It caused no harm to the spirit of the NAFTA pact. Had Mr. Clinton failed to strike this deal, NAFTA likely would have failed in the House, causing horrendous long-term harm to his ability to conduct foreign policy, and to the nation's ability to grow stronger economically through exports.

Refusing to budget on one's beliefs, no matter what, makes for great movie fare—and, as Mr. Perot has demonstrated, great political one-liners. But when it comes to passing critical legislation such as NAFTA, refusing to budget is a recipe for governmental gridlock.

The irony in the NAFTA situation is that many of the same people who complained of government gridlock during last year's campaign—including Mr. Perot—now castigate the president for using the only tool capable of ending gridlock: making intelligent, reasonable deals in return for support. Go figure.

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[From the Chanute Tribune, Nov. 15, 1993]

NAFTA: YES

One of the problems surrounding the North American Free Trade Agreement is the flood of baloney that accompanies the debate on the issue.

Exaggerations, half-truths, twisted facts, skewed studies, scare tactics and cute sound bites have taken the place of analysis and reasoning. As a result the American public is left bewildered by the issue.

This is not an easy subject to debate or digest. But the hoopla has changed the discussion so that it is no longer just a complicated issue. Now it is nearly an impossible one.

Vice President Al Gore has done his share to harm the debate. Just yesterday he said the defeat of NAFTA in Congress would be "catastrophic" to our foreign policy.

Not true. NAFTA's defeat would make us look like a bunch of protectionist sissies. It would set us back a few years in the development of foreign markets for exports. But that's not a catastrophe.

One of the most significant issues raised so far against NAFTA is the specter of job loss when manufacturers are drawn south by cheap Mexican labor.

But American jobs have already been pulled out of this country—to both Mexican and the Asian rim—by corporations in search of cheap labor. That will continue to happen whether NAFTA is ratified or not.

We will see a modest increase in the number of jobs created by companies exporting goods to an expanding Mexican consumer market. But those gains will have a negligible impact on the American job market as a whole.

A greater detriment to job growth is the U.S. Congress, which has stymied U.S. economic expansion by burdening employers with growing numbers of federal regulations, mounds of paperwork, increasing mandated employee benefits and higher taxes.

NAFTA will tear down restrictive tariffs and quotas that raise the price of consumer goods for the citizens of both the U.S. and Mexico. It will allow Kansas producers greater access to markets for their grain and beef.

And it will probably raise the standard of living for Mexico's consumers, which in turn will give them more disposable income for the purchase of U.S. goods and services.

NAFTA will work, if Congress has the guts to give it a try.

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[From the Russell Daily News, Nov. 16, 1993]

THE DEFINING MOMENT

The Defining Moment for the United States will occur Wednesday as members of the House of Representatives register their votes for or against passage of the North American Free Trade Agreement. It will be the day that America decides which path to follow, whether to turn inward, or to continue to expand free markets and lower trade barriers.

NAFTA must be passed. It is so important not only to Americans today, but to the welfare and livelihood of our children and their children.

America must compete successfully in the world's markets or we will go down the drain. If we do not continue to expand trade, we will decline and will no longer be the productive giant of the world.

History shows that every time that trade barriers have been reduced or eliminated, people on both sides have benefited. Every time tariffs have been increased, unemployment has grown on both sides, and oftentimes wars have occurred as a result of unemployment and inflation, which isolationism produced.

Japan today would be a much more prosperous nation if their import barriers were not so high and their trade surplus not so huge.

This is another of those cases where we must take the long view, for the sake of our children and the nation's future. To rebuild our economy and to create jobs will require a wrenching readjustment driven by the need to be fully competitive in an integrated world economy. To some degree, that requires a leap of faith, but America's underlying assets should make the leap easier than it initially appears.

The great political struggle over NAFTA is at an endgame. What stands out in retrospect is how infrequently its proponents could muster the courage to go beyond their talking points and tell the hard truth behind the need for the agreement.

Stated crudely, it is this. Even if approved, NAFTA cannot—and will not—make life appreciably better in the short run for the millions of American workers whose economic condition has darkened during the past 20 years. It will, however, improve the possibility of long-run improvement, while failure to endorse NAFTA will further diminish that prospect.

To put it another way, there is no way to return to the glory years when we were the world's lone economic giant and could do no wrong. In today's global market, there are no free rides. We will either compete or inexorably fall.

NAFTA alone is no magic elixir. Nothing is. And it will definitely prove to be a bitter potion for some American industries and workers. But the economic environment that NAFTA (and the other trade agreements that will face the nation during the next month) will produce is the absolute precondition for a thundering American revival. As the old saying goes: No pain, no gain.

NAFTA is a free trade agreement that creates a vast North American market in which there will inevitably be domestic losers even as the overall economy is the beneficiary. Some low-wage jobs here will indeed go under in the face of untrammeled competition from even lower-wage industries south of the border. And some high-wage industries will pull up states and seek lower labor costs in Mexico, knowing that they will face no tariff barriers when they ship their products into this country.

But most of that is already happening without NAFTA. Its passage will speed the process somewhat, but it will not produce it.

Conversely, however, NAFTA will provide a vast market for innumerable American products and services that today are kept out of Mexico by high tariffs. It will reward efficient manufacturers and play to our greatest economic strength, which is an educated, mobile work force. Many of the jobs that will be created will be better jobs than the ones that are lost, while those lost jobs will support Mexican workers who are not only eager, but able, to buy American products.

There is no magic wand that can create an insular America where jobs are secure and foreign competitors scarce. There is only certainty that efforts to block out foreign competition and lock in domestic industry will make business and unemployment worse.

So let's go with NAFTA now, then let's improve it and expand it to Brazil, Chile, Argentina, Venezuela and other South American nations, to Central American countries, and then to Greenland and Iceland. Let's pursue the General Agreement on Tariffs and Trade (GATT). Then we will be in a much better position to hold our own and to prosper while competing with the European Economic community and the Asian and Pacific Economic Block.

Mr. DOLE. I suggest absence of a quorum, the time to be charged equally between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DODD. I yield myself 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I know that President Reagan was a supporter of the North American Free-Trade Agreement, but for historical reference the first President to commit to this was Lyndon Johnson, in a speech given in Punta del Este in 1967, calling for a North American free-trade zone including the entire hemisphere. As we are closing this debate, I think it is important to note that he was the first American President to articulate such a trade zone in this hemisphere in a conference of leaders of this hemisphere. It was in that speech on that day that the first American President articulated this idea.

As we close this debate, I think it is worth noting that it was Lyndon Johnson who first expressed those views, at least as an American President.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

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## THRIFT DEPOSITOR PROTECTION ACT OF 1993

Mr. FORD. Mr. President, I submit a report of the committee of conference on S. 714, the Thrift Depositor Protection Act, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 19, 1993.)

Mr. D'AMATO. Mr. President, I rise today in support of the conference report on the RTC Completion Act.

This legislation provides the necessary funds to protect insured depositors in our Nation's thrift institutions. It is vitally important that these funds are made available for this purpose, for the cost of delay is enormous.

The Treasury Department estimates that each day the RTC goes without the necessary funds the ultimate cost to the taxpayer is increased by $3 million. The total cost in not funding the RTC since April 1, 1992, has already exceeded $1 billion. Further delay will only add to this bill.

Mr. President, we should be totally clear that this money does not go to bail out thrift institutions or their owners. Not one cent of RTC money has gone to protect the shareholders of failed thrift institutions. In addition, the conference report explicitly states that funds made available to the RTC in this legislation may not be used, in any manner, to benefit any shareholder of an institution that has been taken over by the RTC.

The funds are used to protect small depositors. The RTC has paid the Federal insurance claim on 21.8 million depositor accounts. The size of the average account is only $9,000.

There is no choice about whether to meet our obligations under Federal deposit insurance. Congress has repeatedly stated that the full faith and credit of the United States stands behind our deposit insurance system. Our whole financial systems depends upon public confidence in our institutions and in the Government's promise to insure depositors. We cannot fail to keep our promise to the Nation's depositors. The bill must be paid. If we don't fund the RTC now, we will have to fund them later, except that the cost later will be more.

Mr. President, the conference committee deleted an $8.5 billion appropriation for the Savings Association Insurance Fund [SAIF] that had been included in the Senate bill. The SAIF will not need funds until 1995, when the RTC ceases to take in newly failed thrift institutions. At that time, the funding needs of the RTC can be determined, and appropriations authorized, if necessary. In addition, the SAIF can also draw on any funds that RTC did not spend in resolving its case load, so that the actual amount of appropriations needed, if any, can be determined after we know what the RTC's total costs will be.

The conference report mandates that the RTC implement numerous management reforms. For example, the RTC must establish a comprehensive business plan. It must appoint a chief financial officer who reports directly to the chief executive officer. It must improve its contracting systems and contractor oversight. It must establish an audit committee to monitor the internal controls of the RTC and the recommendations of the inspector general and the GAO. It is required to respond to problems identified by its auditors, or certify that no action is necessary or appropriate. It must develop and maintain effective internal controls to prevent fraud, waste, and abuse. It must appoint an assistant general counsel for professional liability. It must improve the management of its legal services, and may only hire outside law firms when the use of such law firms provides the most practicable, efficient, and cost-effective resolution to the action. These and other reforms should enhance the management of the RTC, and correct many of the problems we have experienced in the past in its operations.

Mr. President, the conference report also contains provisions encouraging the RTC to contract with minority- and woman-owned businesses, or with contractors who subcontract with or from joint ventures with minority- and woman-owned businesses. The conference report clarifies that these provisions do not supersede the corporation's primary duty of minimizing costs to the taxpayer and maximizing the total return to the Government.

Mr. President, I urge that the Senate approve this conference report today, so that the RTC can finish its job of closing down insolvent institutions and protecting insured depositors.

Mr. RIEGLE. Mr. President, I rise as chairman of the Banking Committee to urge swift passage of the conference report on the RTC Completion Act. Approval of this report will enable us to complete, finally, the thrift cleanup by providing funds to protect federally insured depositors at failed S&L's.

This process has already gone on too long. The RTC has been without funds for more than 19 months. Delay is costly. The Congressional Budget Office estimates that delays in thrift funding during the 1980's increased the cost to taxpayers by $66 billion. Right now, conservatorships that the RTC does not have the funds to resolve continue to lose money. They lost $744 million in the second quarter this year. That's $8 million a day. Some of those losses are unavoidable, but the RTC has estimated that $3 million of each day's losses are pure waste.

In the past, the Senate has repeatedly acted to avoid such waste. Nineteen months ago, when the RTC's funding expired, the Senate immediately passed legislation to provide adequate funds, but the other House was unable to act. This year, the Senate responded quickly to the administration's request. Now, the House has succeeded in passing this bill, and we have had a brief but successful conference. This is the final step, but if we are unable to act before adjourning, we will add many millions of unnecessary costs.

This bill provides $18.3 billion for the RTC. These are funds that were previously appropriated to the RTC, but their availability expired before the RTC was able to use them. The bill also extends the time during which failed thrifts are sent to the RTC by about a year and a half. The administration believes this funding should be sufficient for the job. If we are fortunate, the actual need may be less. Any funds not needed will not, and cannot be spent. If there is any money left over, it must be returned to the Treasury.

It is important to remember that the purpose of this legislation is to protect depositors at failed thrifts. That is where all the money goes: to depositors. So far, the RTC has made whole 22 million depositor accounts. These are not fat cats. The average size of protected accounts is $9,000. If we do not provide the money, ultimately we will be forced to default on our Federal deposit guarantees.

While, so far, the RTC has fully met its responsibilities to protect depositors, its efforts at managing the disposition of failed assets acquired from failed thrifts have been flawed. This legislation, produced after long hours of work with Banking Committee members, the administration, and the House should result in a number of significant improvements in the RTC's management and strategies. The bill requires the RTC to establish a comprehensive business plan for the remainder of its existence. It requires the RTC to market real estate assets on an individual basis for at least 120 days before marketing them on a bulk or multiasset basis. The RTC must also revise its procedures for qualifying contractors to strengthen contractor systems and oversight and to maintain uniform procurement guidelines to prevent the acquisition of goods and services at widely different prices. The Oversight Board must establish an audit committee for the RTC and the RTC must maintain procedures which provide for a prompt and determinative response to problems identified by auditors and to maintain effective internal controls designed to prevent, identify, and correct fraud, waste, and abuse. The RTC must appoint an assistant general counsel for professional liability within its Division of Legal Services, improve its management of legal services, and report on the actions of the Division to Congress. The RTC must maintain an effective management information system, appoint a chief financial officer, and include in its annual report an itemization of the expenditure of funds appropriated under this bill and a disclosure of the compensation of executives and directors of institutions in RTC conservatorship or receivership. And a new process is established for nondefaulting business and commercial borrowers at failed thrifts to appeal decisions by the RTC to terminate their loans, and a new responsiveness unit or ombudsman in every regional office.

The bill also ensures significant opportunities for minority and women-owned businesses. The RTC must maintain a division of minorities and women's programs headed by a vice president of the RTC who also must be a member of the RTC's executive committee. It must establish guidelines for goals for a reasonably even distribution of contracts among minority- and women-owned business [MWOB] subgroups comprising more than 5 percent of all registered MWOB contractors and require sanctions for RTC contractors not complying with joint-venturing and subcontracting requirements.

The legislation generally prohibits the RTC from giving bonuses in amounts that exceed those given at other Government agencies. It also requires the FDIC and the RTC to establish an interagency transition task force for the purpose of facilitating the transfer of RTC operations and personnel to the FDIC or the FSLIC resolution fund in a coordinated manner. The bill expands and improves the RTC and FDIC affordable housing program at no additional cost. The whistleblower protections applicable to RTC contractors are applied to FDIC contractors and bank regulators. And the bill makes

the inspector general of the FDIC a Presidential appointment, rather than an agency appointment.

I was disappointed that the conference did not accept the Senate position on extending the statute of limitations on all RTC tort actions to 5 years. That was a mistake. The House provision, which the conference did accept, extends the statute of limitations only in some cases. But that is at least an improvement from current law.

We need to pass this bill now to institute all of these improvements and stop the deterioration and waste that results when failed and failing thrifts are allowed to continue operating. The administration supports this legislation, as did the previous administration. I would like to ask unanimous consent to insert a letter of support I received Thursday from Secretary Bentsen into the RECORD at this point. And I would also like to insert a letter I received yesterday from GAO Comptroller General Bowsher that confirms the necessity of this legislation. I urge my colleagues to vote for this conference report.

## RTC ISSUES

Mr. METZENBAUM. Would the chairman of the Banking Committee further clarify the intent of Congress with respect to the statute of limitations applicable to the RTC as receiver or conservator on matters involving contracts?

Mr. RIEGLE. I would be pleased to further respond to my colleague from Ohio. Although the legislation only addresses the statute of limitations applicable to the RTC as receiver for tort claims, I want to reiterate our intent with respect to the statute of limitations applicable to the RTC as receiver or conservator on matters involving contracts. The Financial Institutions, Reform, Recovery and Enforcement Act of 1989 [FIRREA] provides the RTC as well as the FDIC as conservator or receiver a minimum of 6 years from the date of appointment as receiver or conservator to bring suit on contract claims. Contract claims include suits brought to enforce delinquent loans and other assets owned by the receiver or conservator. In granting the RTC the authority to dispose of loans and other assets, it was the intent of the Congress, as expressed in FIRREA, that all of the rights of the receiver or conservator with respect to such loans and other assets be transferred as well. These rights include the right to bring suit on the loans and other assets within the same period provided by law to the RTC, that is, a minimum of 6 years. Most courts have recognized this intent and have sustained the transferees right to bring suit within the time allotted to the RTC and FDIC. To hold otherwise would greatly diminish the ability of the RTC to dispose of delinquent loans and other such assets expeditiously and would drive up the costs of liquidating these assets, diminishing the return on assets and driving up the ultimate cost to the taxpayer of resolving the savings and loan crisis.

Mr. METZENBAUM. Would the chairman further clarify the intent of the provision regarding the authority granted to the RTC in resolving minority institutions?

Mr. RIEGLE. The RTC should use this enhanced minority resolutions authority to avoid resolutions whereby depository institutions, or branches thereof, serving minority areas are acquired from the RTC solely for the purpose of buying deposits and are promptly closed or have their banking services significantly curtailed. To that end, the RTC should negotiate and memorialize in deposit transfer agreements and in purchase and assumption agreements commitments from acquirors of depository institutions, or branches thereof, in minority neighborhoods requiring such acquirors to maintain full service branches at or near the locations acquired for a reasonable period of time following the acquisition.

### STATUTE OF LIMITATIONS

Mr. BRYAN. Would the chairman of the Banking Committee please clarify whether the statute of limitations provision included in the RTC Completion Act conference report is intended to affect the rationale of judicial decisions interpreting 12 U.S.C. 1821(k)?

Mr. RIEGLE. I thank the Senator from Nevada who serves as the ranking member of the Banking Committee for his inquiry. Under current law, 12 U.S.C. 1821(k) provides that actions against directors and officers may lie for gross negligence or other more serious conduct. It also preserves actions that may be brought under other applicable law, including actions based on simple negligence. The latter provision has been the subject of considerable litigation around the country, and most recently, a seventh circuit decision adverse to the RTC's position. Nevertheless, the RTC and FDIC have established, through decisions such as FDIC versus Canfiled (10th circuit), and FDIC versus McSweeney (9th circuit), that actions premised on ordinary negligence are permissible if allowed under other applicable law, such as State law. These decisions should not be disturbed by the mere extension of the limitations period applicable to certain types of tort actions.

### NEGLIGENCE VERSUS GROSS NEGLIGENCE

Mr. MACK. As the distinguished Senator from Connecticut knows, the conference report on the RTC funding includes compromise language for the extension of the statute of limitations for RTC-initiated tort actions. At this time, I would like to ask the distinguished Senator the intent underlying one critical aspect of the compromise—the distinction between negligence and gross negligence.

Mr. DODD. Let me first describe my understanding of the compromise. First, the extension will apply retroactively to revive a claim that is barred by the current statute of limitations, but only where the claim "arises from fraud, intentional misconduct resulting in unjust enrichment, or intentional conduct resulting in substantial loss" to the failed thrift.

Second, the extension will apply to a claim that is not currently time-barred, but only if the claim arises from "gross negligence or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct." As a result, the extension will not apply to a simple negligence claim or to any claim arising from simple negligence, such as the breach of a fiduciary duty of care.

Finally, while the statute of limitations is generally extended from 3 to 5 years, the authority to take advantage of the extended statute sunsets when the RTC terminates. By that time, the statute of limitations will be extended more than 3 years but less than 5 years.

Mr. MACK. That description is very helpful and it leads me to my real concern—could the RTC simply change the name of its negligence actions to gross negligence just to take advantage of the extended statute of limitations?

Mr. DODD. Absolutely not. This interpretation is just plain wrong, and I think it's important that we set the record straight, clearly and completely. The intent of this legislation is to draw a clear distinction between actions arising from simple negligence and the much more serious situation involving actions arising from gross negligence or conduct worse than gross negligence. Under no circumstances could courts permit RTC attorneys to simply restyle simple negligence cases as gross negligence cases in order to get the benefit of the extended statute.

Mr. MACK. I agree. The RTC should only be able to use the extension for actions based on legitimate allegations of gross negligence or worse conduct. It should not apply to simple negligence claims that are just given a different name.

Mr. DODD. The Senator is correct. Let me also emphasize that there is a clear distinction, well-recognized in the law, between negligence and gross negligence, and that the intent of the provision is to recognize this clear distinction. For example, Black's Law Dictionary defines gross negligence as "the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another." Black's further states that gross negligence is not "simple inadvertence," but instead "very great negligence, or the absence of slight diligence, or the want of even

scant care." In contrast, simple negligence focuses on "inadvertence, thoughtlessness, inattention, and the like."

The courts have been equally clear about this distinction. For example, according to *Ryan* v. *Foster & Marshall, Inc.*, 556 F.2d 460 (9th Cir. 1977), "Gross negligence * * * is characterized by conscious indifference to or reckless disregard of the rights of others."

In sum, the provision in the bill reflects the clear intent to draw a bright line between such claims and claims that arise from far more serious misconduct. The distinction between negligence and gross negligence is intended to be this bright line, based on the clear understanding from numerous courts and commentators that there is a substantial and meaningful difference in the seriousness of misconduct involved in the two types of torts.

Mr. MACK. Thank you for clarifying this important issue.

Mr. KERRY. Mr. President, at the time Secretary Bentsen came before the Senate Banking Committee in the spring, with a nine-point plan to reform the Resolution Trust Corporation, I expressed my concern that the Treasury Department did not have an adequate picture of the magnitude of the problems at the RTC.

At the GAO has documented, the RTC has never had adequate controls on its operations. There has been waste, fraud, and abuse of a magnitude that is substantial but whose amount no one has been able to specify. What is certain is that a number of private law firms, accounting firms, and real estate contractors have taken advantage of RTC's management weaknesses to rip off the public—increasing the overall cost of the S&L bailout.

The RTC had failed to operate according to the law establishing its existence, FIRREA. We required the RTC to maximize recovery on assets it acquires. As the GAO has concluded, it hasn't done so, due to mismanagement, inadequate financial and information systems, fraud and abuse.

We also required the RTC to minimize the impact of its activities on local markets. For example, as we have heard from one experienced RTC real estate asset manager, there is substantial reason to believe that the RTC may be contributing to the collapse of real estate prices in California, through auction sales of real estate that are chasing the market down.

We required the RTC to make efficient use of its funds. Again, the GAO has found numerous failures here, and we will hear testimony today from more than one witness about how RTC managers leave funds sitting in interest-free accounts, costing the taxpayers thousands of dollars for no reason.

Fourth, we required RTC to minimize losses incurred in resolving cases, by going after S&L wrongdoers. As the GAO has acknowledged, the RTC last year disrupted its ability to sue those whose wrongdoing contributed to savings and loans losses through a reorganization that has resulted in the demoralization of staff and inadequate case development.

Early this year, in light of my decision—a painful decision—to support the administration's request for the final installment of paying for the savings and loan crisis—I asked my staff to reach out directly to RTC employees to determine whether the kinds of problems identified by the GAO are continuing. I wanted to determine whether there were ongoing management problems at the RTC in addition to the obvious difficulties the RTC was having creating adequate systems to handle these enormous resolutions.

I found to my dismay that literally dozens of employees and managers from RTC across the country, were candidly confessing to my office that the GAO's reports of disarray at RTC only scratched the surface. That the reality was worse. As one recently departed senior official from RTC in Washington told my staff, the RTC was not only "a catastrophe," but also "a snakepit."

My office was told of case after case of waste, fraud, abuse and mismanagement, in many cases involving people in very senior positions within the agency at RTC offices across the country.

I heard allegations of the steering of contracts by RTC personnel to former or future employers. I heard of major accounting firms receiving huge RTC contracts, and then hiring inexperienced people off the street who did incompetent work, and padded their bills to boot. I was told of RTC managers telling lower-level employees to pay bills regardless of the quality of the work.

I was told about faulty computer systems for legal billing and thousands of lost invoices, so that the RTC could not determine whether a bill was legitimate or not.

I was told repeatedly about cases of sexual discrimination and even physical sexual harassment at the RTC.

I was told about RTC employees being asked by RTC managers to fabricate data for Congress when the real data was unavailable, or would not look good. I was told of cases where RTC employees were discouraged from telling the truth to the GAO. And I heard disturbing suggestions that the RTC's inspector general was viewed by employees as being in bed with management and ineffective.

On September 23, the Banking Committee took the testimony of 13 of the most courageous whistleblowers, who presented 5 hours of testimony to us under oath.

What we heard was shocking. We heard that RTC's auction sales are costing the taxpayers 15 percent or more in relation to the real value of the real estate, and the data is massaged to hide the losses through appraising mechanisms that narrow the difference between the real value and whatever RTC actually sells the property for.

We heard that managers at the RTC have yelled and cursed their staff, physically and sexually accosted staff, targeted women and minorities for abuse, attempted to force staff to break RTC rules and regulations, attempted for force the award of contracts to their friends, and attempted to force others to cover-up their actions.

We heard of phony bills being paid and paid again by the RTC to people who did incompetent work that was not needed in the first place. We heard of the Government taking a dive in prosecuting cases against S&L wrongdoers in Colorado and in Texas.

As a senior RTC investigator with extensive experience told my staff:

> I've worked for the government all my life. Is the RTC worse? Yes, it is the worst I ever saw. This is not the real government. They don't have any rules. They do their own thing. Places I come from, people are very tight with a dollar. At the RTC, there is no attempt to save the taxpayers any money. The organizations defies any command structure. People aren't held accountable for their actions and they aren't getting their job done. I've never been in an organization that when someone brings a problem to management's attention, instead of fixing the problem, they try to get rid of the person who brought the problem to their attention.

I could go on and on with a history of the abuses at the RTC, as indeed, the RTC's own employees did for 5 hours on September 23. But that is not necessary here.

I will vote against funding the RTC today, and urge my colleagues to vote against the funding.

The GAO tells us today that this bill contains about four times as much money as the RTC is ever going to need, and that none of the money is needed now.

Even if the RTC needed the money, which it does not, I could not in good conscience authorize another penny for an agency that has so cavalierly wasted the taxpayers' money to date, and which has remained incapable of control by the new administration.

Recently, I met with Deputy Secretary of the Treasury Roger Altman, who I know wants to do the right thing with the RTC. Mr. Altman had his full share of responsibilities before this burden was placed upon him, and he has never been in a position to devote his entire schedule to solving the RTC's deep problems.

I fully appreciate how difficult it has been for the Treasury to solve the deep problems it inherited at the RTC, problems which have been exacerbated by the temporary nature of the Agency.

And I have tried to work with the administration in the effort to respond to these problems.

I have suggested to the administration that they immediately take the following steps to deal with waste, fraud, and abuse at the RTC:

First, to deal with the enduring personnel problems at the Agency, send in a team of professionals from outside RTC to examine RTC's management style and morale problems. A team of outsiders is necessary to respond to the pervasive personnel abuses and practices that have become endemic at the RTC.

Second, the administration needs to send a message of zero tolerance for abusive personnel practices. Management personnel who have committed ethical or personnel violations need to be removed and punished, and not merely put back to the FDIC and thereby protected. Patterns of EEOC complaints and other personnel, expense account, and conflict allegations are appropriate places to begin in evaluating where action needs to be taken.

Third, witness after witness has testified that the RTC Inspector General's office has little credibility among rank and file employees at the Agency. Steps need to be taken to restore the credibility of the Inspector General.

Fourth, RTC needs to take aggressive action against contractors who have abused the agency, and thereby send the message that fraud will not be tolerated. Limits should be placed on subcontracting, whereby firms broker subcontracts, hiring temps who often have no special skills, and making profit for no real work of their own.

Fifth, over the past 9 months, the administration has failed to put its own people in place at the RTC, and has not really placed anyone in the position of devoting his or her full-time to solving the Agency's problems. The administration needs to focus its attention on the catastrophe it inherited, because the catastrophe will not disappear by inattention. Instead, it can only grow.

We have done legislatively all we can do to give the RTC the tools to clean up after the S&L disaster. FIRREA's goals are clear, and we have given the RTC a lot of discretion as to how to go about achieving them. There is no legislative solution to the kind of problems the RTC has. The problem is a management problem—an executive branch function—and of a very serious nature.

I urge my colleagues to vote against further funding for the RTC until the administration has implemented a plan that convincingly ends the endemic waste, fraud, and abuse pertaining to the RTC's first 4 years of operation.

Mr. DOLE. Mr. President, we all know that the Resolution Trust Corporation is everyone's favorite punching bag. Over the years, I've taken a few swipes myself, expressing my disappointment, for example, that the RTC Regional Office in Kansas City had once used taxpayer funds to purchase original artwork.

KEEP A CLOSE EYE ON THE RTC

Today, I continue to receive complaints from constituents about irregular bidding procedures, or auctions that don't work as advertised, or RTC bureaucrats who make a habit of not returning phone calls. When I feel that a complaint has merit, I pass it along, and I expect the RTC to take remedial action. As long as the RTC is in business, I will be keeping a close eye on its activities.

RTC FUNDING IS NOT PARTISAN

Now, this is the first RTC funding bill of the Clinton administration. When President Bush and Secretary of the Treasury Nick Brady came to the Hill seeking additional funding for the RTC, most of my colleagues on the other side of the aisle were ready to lend their support. They knew that RTC funding is an American issue, not a partisan issue. S&L's don't fail based on the number of Republican or Democrat depositors.

Certainly, no one likes voting money to bail out the S&L mess. But the bottom line is that we must forge ahead and close one of the saddest chapters in our Nation's financial history. The longer we delay RTC funding in the shortrun, the greater the cost to the American taxpayers in the long run.

And let's be clear: We're not talking about bailing out S&L executives and stockholders. Every penny of this bill goes to protect depositors.

Those who will benefit from this bill are not the S&L highfliers, but the millions of people throughout the country who thought they were making a prudent decision when they chose to deposit their hard earned savings in savings institutions.

I am pleased that the conference report requires the RTC to adopt certain reforms, including stronger internal controls against waste and fraud. The RTC must appoint a chief financial officer, improve its contracting system, and establish an audit committee. In addition, it must improve the management of its legal services and may hire only those law firms that provide the most cost-effective services.

Although these reforms won't prevent every glitch, they will help ensure that the American people get a bigger bang for their RTC buck.

Mr. President, many years ago, the U.S. Government made a commitment to the American people—that it would lend its full faith and credit to any deposit placed in an insured institution. If the Government is to remain true to this commitment today, we must act responsibly and pass this conference report.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—54

| | | |
|---|---|---|
| Akaka | Domenici | Mathews |
| Bennett | Durenberger | Mikulski |
| Biden | Feinstein | Mitchell |
| Bingaman | Ford | Moseley-Braun |
| Bond | Glenn | Murkowski |
| Boren | Grassley | Murray |
| Boxer | Gregg | Nunn |
| Breaux | Hatfield | Packwood |
| Bryan | Heflin | Pell |
| Bumpers | Inouye | Pryor |
| Chafee | Jeffords | Reid |
| Coats | Johnston | Riegle |
| Cohen | Kassebaum | Robb |
| D'Amato | Kennedy | Roth |
| Danforth | Leahy | Sarbanes |
| Daschle | Levin | Sasser |
| Dodd | Lieberman | Simon |
| Dole | Lugar | Simpson |

NAYS—45

| | | |
|---|---|---|
| Baucus | Graham | McConnell |
| Bradley | Gramm | Metzenbaum |
| Brown | Harkin | Moynihan |
| Burns | Hatch | Nickles |
| Byrd | Helms | Pressler |
| Campbell | Hollings | Rockefeller |
| Cochran | Hutchison | Shelby |
| Conrad | Kempthorne | Smith |
| Coverdell | Kerrey | Specter |
| Craig | Kerry | Stevens |
| DeConcini | Kohl | Thurmond |
| Exon | Lautenberg | Wallop |
| Faircloth | Lott | Warner |
| Feingold | Mack | Wellstone |
| Gorton | McCain | Wofford |

NOT VOTING—1

Dorgan

So the conference report was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I now suggest the absence of a quorum, and ask that the time be charged equally to the two sides on the NAFTA debate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll. The time will be divided equally on this quorum call.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. I object. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senate will please be in order.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent the proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. May I inquire of the time remaining on the NAFTA debate?

The PRESIDING OFFICER. All time has expired on the NAFTA debate. All time has expired.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senator from South Dakota be recognized for 3 minutes on the NAFTA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I rise today, as ranking member of the Small Business Committee, to offer my full support for the North American Free-Trade Agreement. In these past months, I have received many letters and calls from small business men and women urging a yes vote for NAFTA—a trade agreement that means expanded markets, higher returns, less regulation, and job creation.

How will this happen? When it comes to exporting, the engine of our Nation's economy—the small entrepreneurs—has repeatedly been confined. These innovators have been squeezed out of markets by a multitude of tariff and nontariff barriers. NAFTA promises to create one of the largest and richest markets in the world, and our Nation's small businesses stand to be a major beneficiary. Unfortunately, unfounded fear has been instilled in the American people. It is the fear that NAFTA would rob our citizens of hundreds of thousands of jobs. Congress must react not to fears, but job creator for our country, particularly for small businesses.

Without the promise of NAFTA, small businesses will continue to wrestle with all the regulations involved in exporting to Mexico. Most small businesses do not have the means to overcome this regulatory burden. Presently, small firms shipping goods to Mexico by truck are forced to drop their product at the border and return home empty. Owners then pay extra for a Mexican truck to transport their products to their final destinations. High Mexican tariffs are another costly barrier making it virtually impossible for many small firms to compete. A further setback is a Mexican law which requires small business service providers to locate in that country in order to operate there. This is a cost many small businesses are unable to handle. Finally, local content restrictions bar many small parts suppliers from selling their wares to United States manufacturers located in Mexico.

With the enactment of NAFTA, U.S. small businesses would be relieved of these burdens. This would open the door to increased growth in foreign trade. How? Mexico would open its 2,000-mile border to United States trucks for the first time. Many tariffs would be reduced substantially and immediately. United States firms located in Mexico would be able to rely more heavily upon United States parts suppliers—many of which are small businesses. In addition, firms that provide services in Mexico no longer would be required to locate in that country. Added together, these reductions in current trade barriers would create new opportunities for our entrepreneurs to expand into one of the fastest growing markets in the world.

Mexico already is the third largest market for United States goods. Fifteen cents out of every dollar earned in Mexico goes toward buying United States products. Since 1986, United States exports to Mexico have more than tripled. We have turned a $5.4 billion trade deficit into a $5.7 billion trade surplus—a turnaround of $11.1 billion. With figures such as these, imagine what could result from a trade agreement that would enable Mexico's gross domestic product to continue its steady rise. As the purchasing ability of Mexican businesses and consumers increases, the United States undoubtedly will benefit.

Many ask: What about job loss? Yes, it is true NAFTA will cause some Americans to lose their current jobs. However, it is estimated that if the trade agreement is enacted, for every job that is lost, five jobs would be created. For those who do lose their jobs, the administration has promised to propose a worker retraining program.

I represent a State in which 98 percent of businesses are small businesses. If I did not fell absolutely certain that NAFTA were a step in the right direction for small businesses, I would not be offering my full support for this free-trade agreement. NAFTA is a step in the right direction for small business. It represents a move toward continued prosperity for our businesses and the workers they employ.

America's small businesses currently are making trade deals at a rate faster than our Nation's big exporting companies. They are our country's most reliable source of new job growth. We must do everything we can to support them. A free-trade agreement with our two neighboring countries is a way to provide additional invaluable opportunities for the entrepreneurs of America.

As the vote on the NAFTA nears, I urge my colleagues to keep in mind that protectionist policies are not an effective way to preserve jobs. In fact, they often destroy jobs by forcing businesses to operate at inefficient cost levels—a situation which proves fatal for many businesses, large and small. NAFTA's passage would serve only to strengthen the position of our country's most ambitious job creators and enhance their role as international competitors.

Mr. MITCHELL. Mr. President, I say to the Members of the Senate, I have been trying for some time to get to a vote on the North American Free-Trade Agreement, and we will do so shortly. The Republican leader has requested a brief period for consultation with his colleagues on some other matters and I think it is appropriate that I accommodate that request. I assure you it is and will be brief.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair did not hear an objection raised.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## WEST VIRGINIA DEFEATS MIAMI

Mr. ROCKEFELLER. Mr. President, I have been living in West Virginia for 29 very happy years, and this is not a statement that meets the moment of trade relations in the world, but I wish to share my joy with my colleagues that the West Virginia University football team just defeated the University of Miami, which is probably the biggest athletic triumph in the history of our State. I am trying to contain myself and be as dignified as I can, and I am not doing it very well, but I wanted to share that with my colleagues.

I thank the Chair.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. MITCHELL. Mr. President, I ask for the regular order.

The PRESIDING OFFICER the clerk will report the regular order of business.

The legislative clerk read as follows:

A bill (S. 414) to amend tile 18, United States Code, to require a waiting period before the purchase of a handgun.

The Senate resumed consideration of the bill.

Pending: Mitchell/Dole amendment No. 1218, in the nature of a substitute.

Mr. MITCHELL. Mr. President, I ask unanimous consent to modify the Mitchell-Dole substitute. I send the modification to the desk.

AMENDMENT NO. 1218, AS MODIFIED

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

**SEC. ___02. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.**

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending either on the day before the date that is 48 months after such date of enactment unless the Attorney General extends the date by twelve additional months, or on the day that the Attorney General notifies the licensees in all of the States under section ___03(d) of the Brady Handgun Violence Prevention Act, whichever occurs earlier, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

Mr. MITCHELL. Mr. President, let me explain just briefly the modification, and then proceed to vote on the Mitchell-Dole substitute to the Brady bill as just modified and to be immediately followed by a vote on the North American Free-Trade Agreement.

In the Mitchell-Dole substitute, there is a sunsetting provision. It is stated in the bill at 60 months, 5 years. This modification reduces the sunsetting period from 5 years to 4 years unless the Attorney General decides to add an additional 12 months, putting it back to the original 5 years.

I ask the clerk now merely to state the modification.

The original language was 60 months. It now reads as such. I ask the clerk to state it.

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk read as follows:

Beginning on the date that is 90 days after the enactment of this subsection and ending either on the day before the date that is 48 months after such date of enactment unless the Attorney General extends the date by 12 additional months, * * *.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. That is the modification. I therefore now ask if we can proceed to vote on the Mitchell-Dole substitute.

Mr. President, I am advised that in order to avoid multiple votes, we have to bring the bill to third reading and have a substitute for the House bill. So we will do that. That will take just a moment.

If the Senator from Idaho wishes to address the Senate, I will be pleased to yield to him.

Mr. CRAIG. I thank the majority leader for yielding.

While this compromise has been struck on a very important bill, and there have been some tremendous gains made by those of us who believe that this kind of legislation does not serve the gun-owning public of America well, it is without question moving us very rapidly toward what will, and that is an instant background check that will provide American citizens the right to own guns without question and deny criminals those guns.

Today we have 18 million names on file in a computer downtown, and as soon as States can qualify, this legislation will bring it on line, so that the waiting period will go away.

Now, while I think it is significant, because I do not believe waiting periods serve the public well, I will oppose it. But it is without question a major advance toward solving a problem that I think clearly has to be addressed in this country.

I thank the majority leader.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I appreciate the Senator's comments. Of course, the Senator's comments were not addressed to this modification. They have nothing to do with the modification. They have to do with the inclusion of the instant check system as a whole, which is in the substitute——

Mr. CRAIG. That is correct.

Mr. MITCHELL [continuing]. Which was in the bill. That in fact was the compromise that Senator DOLE and I, with Senators METZENBAUM and KOHL, struck in 1991.

Mr. CRAIG. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. CRAIG. The modification moves us 12 months closer to that instantaneous background check.

Mr. BIDEN addressed the Chair.

Mr. MITCHELL. Yes, I yield.

Mr. BIDEN. Mr. President, I do not want to mislead anybody. I will be chairing that conference, and I am going to move it back 12 months.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The majority leader has not relinquished his right to the floor.

Mr. METZENBAUM. Will the majority leader yield?

Mr. MITCHELL. Does the Senator wish me to yield?

Mr. METZENBAUM. Very briefly, if I may speak.

Mr. MITCHELL. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, we have gone a long way on the Brady bill. For 7 years, we have been fighting on the subject. I know we are now ready to adopt the Brady bill. We have a 4-year provision, with the Attorney General having the right to extend it for an additional year, which is the same 5 years we were talking about.

I think maybe we are finally going to make the right decision with respect to the Brady bill and start to eliminate some of the handguns in this country; keep people from buying them, that is, those who should not be buying them.

I think when we pass this bill, it will be a major victory for the American people. I think the decision last night was a very wrong one, in so many ways, but I think better thoughts have come about since last night and I am prepared to go forward with the vote.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Are we prepared to adopt the Mitchell-Dole substitute?

Mr. KOHL. Mr. President, occasionally the Senate is full of good surprises. Today is one of those days—because we are going to enact the Brady bill.

This modification is more than acceptable—it preserves the extent of the original legislation.

It will help save lives. And passing this bill—which 90 percent of the American public has demanded—will help restore their faith in our Government.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment, as modified.

The amendment (No. 1218), as modified, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 414 be read a third time; that the Senate turn to the consideration of H. R. 1025; that all after the enacting clause be stricken; that the text of S. 414 be inserted in lieu thereof; and, that a vote occur on passage of H.R. 1025; further that the Senate insist on its amendment, request a conference with the House; and, that the Chair be authorized to appoint conferees.

Mr. DOLE. Mr. President, I have no objection. I want to make a 1-minute statement before the vote.

Mr. MITCHELL. I yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was read for the third time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I will take 1 minute.

I think it is unfortunate that the chairman of the committee announced in advance that he had no confidence in what the Senate might do.

Some of us have been working all day on this in good faith. Maybe we should not have. But we have been trying in good faith to find a compromise, and I think it is most unfortunate the chairman of the committee said that whatever happened it is going to be 5 years. Maybe he can do that. But there will be other bills coming along. We will keep that in mind as we look down the road.

I think many of our Members who might have been able to support this measure are now put on notice by the chairman that it does not make any difference what you did, it is going to be 5 years.

There are a number of good provisions in this bill that have not been in any Brady bills before. There are about seven or eight provisions on law enforcement, going after the criminals and not after the victims that are in this bill that have not been in the bill before.

So I assume the chairman is going to knock those out in conference too. If we are going to do all that, we might as well vote "no," and then we can filibuster the conference report when it comes back.

Mr. BIDEN. Mr. President, that would be fine with me. But let me make it clear what I meant. The fact of the matter is that on this provision it is not worth much of a distinction in where the House is. The House made it clear. They voted overwhelmingly—5 years. We are at 4 years with the right of the Attorney General to extend it to 5.

I have been to enough conferences to know where it is going to end up. I do not want to mislead anybody. When we come back here, and if it comes back, there is an understanding that somehow I am going to be able to protect 4 years with a 1-year extension by the Attorney General versus what the House has. The answer to that is I want to put everybody on notice that is not likely to happen—could happen—highly unlikely. I just want to have total clean hands in this.

With regard to the rest of the provisions in this bill, we did negotiate them. They are good provisions. I will go into the conference to try to protect the Senate's position on what is the Mitchell-Dole substitute. But as it relates to this latest change that is bringing about this so-called compromise, I do not want anybody to be misled as to what is likely to happen. But it seems to me that we will go into the conference, we will take the Senate's position into the conference. But I am a realist.

Mr. MITCHELL. Mr. President, 2½ years ago we began the legislative process that culminates in just a few moments. Senator METZENBAUM has for years been advocating the Brady bill. He is joined by others here.

The bill in its initial form, I stated then, I believed would not accomplish the purpose of its supporters, and we then had in 1991 a serious good faith, lengthy negotiation, principally involving Senator DOLE and myself, Senator METZENBAUM, and Senator KOHL.

We then came up with the bill which we thought was a good bill, and so did the Senate—67 Senators voted for it.

Mr. President, that bill did not become law because it was included in the larger bill which was not enacted. Now we have come to this year, and we have had another good faith negotiation. It has been as long and tedious as any negotiation I have ever been involved in. We have been 5 days, most nights—not so much us but our poor staffers working through the night—trying to reach agreement.

There are a lot of good provisions in this bill. We had some disagreement. The principal disagreements were over preemption which the Senate rejected. That rejection stands now. There is no preemption in this bill.

The second difficult agreement was over sunsetting, which the Senate included. The sunsetting was at 5 years. The House did the same thing. It rejected preemption and accepted a 5-year sunset.

Now, over the past days since we were unable to get cloture, we have modified it in the manner that has been stated by the clerk which we have agreed upon. This has been painful and difficult for everybody. But let us not lose sight of the fact that for those who believe this to be an important measure, this is a significant success. Just a few days ago, just a few hours ago, we were in the position of not even being able to vote on this. Now we are going to vote on this.

I fully respect the views of the Senator from Idaho, and those who may vote on this, because on principle they disagree with what this bill will do, and they disagree with the motivation behind it.

Those of us who share an opposite view ought not to let it be obscured by the difficulty and the problems that have developed, particularly in these most recent moments, and statements about the significance of what is occurring. This is a significant action.

The Senate is now going to pass a Brady bill. And I hope and trust that when we come back from conference, whenever and in whatever form that is, we will be in a position to adopt that and have it enacted into law.

Mr. President, I ask unanimous consent that immediately following the vote on the Brady bill, without any intervening action or debate, the Senate vote on the North American Free-Trade Agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I ask the majority leader if the votes could be 10 minutes.

Mr. MITCHELL. No. There may be Senators not present.

I would like, if I could. We will try to speed it up.

Mr. President, I inquire of the Republican leader: Is there anything he wishes to say at this time on either subject?

Afterward, there will be time for statements by Senators.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. It requires unanimous consent to request the yeas and nays at this point.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, the bill is read a second time.

Without objection, the text of S. 414 is substituted.

The clerk will read the bill for the third time.

The bill (H.R. 1025) was read for the third time.

The PRESIDING OFFICER. The bill having been read for the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—63

| | | |
|---|---|---|
| Akaka | Durenberger | Lautenberg |
| Baucus | Exon | Levin |
| Biden | Feingold | Lieberman |
| Bingaman | Feinstein | Lugar |
| Bond | Ford | Mathews |
| Boren | Glenn | Metzenbaum |
| Boxer | Gorton | Mikulski |
| Bradley | Graham | Mitchell |
| Bumpers | Harkin | Moseley-Braun |
| Byrd | Hatfield | Moynihan |
| Chafee | Hutchison | Murray |
| Coats | Inouye | Nunn |
| Cohen | Jeffords | Packwood |
| Conrad | Kassebaum | Pell |
| Danforth | Kennedy | Pryor |
| Daschle | Kerrey | Reid |
| DeConcini | Kerry | Riegle |
| Dodd | Kohl | Robb |

| | | |
|---|---|---|
| Rockefeller | Sasser | Warner |
| Roth | Simon | Wellstone |
| Sarbanes | Thurmond | Wofford |

NAYS—36

| | | |
|---|---|---|
| Bennett | Faircloth | Mack |
| Breaux | Gramm | McCain |
| Brown | Grassley | McConnell |
| Bryan | Gregg | Murkowski |
| Burns | Hatch | Nickles |
| Campbell | Heflin | Pressler |
| Cochran | Helms | Shelby |
| Coverdell | Hollings | Simpson |
| Craig | Johnston | Smith |
| D'Amato | Kempthorne | Specter |
| Dole | Leahy | Stevens |
| Domenici | Lott | Wallop |

NOT VOTING—1

Dorgan

So, the bill (H.R. 1025), as amended, was passed.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 414 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 1025, and the Chair is authorized to appoint conferees on the part of the Senate.

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## NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The clerk will read H.R. 3450 for the third time.

The bill was ordered to a third reading and was read the third time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—61

| | | |
|---|---|---|
| Baucus | Gorton | McCain |
| Bennett | Graham | McConnell |
| Biden | Gramm | Mitchell |
| Bingaman | Grassley | Moseley-Braun |
| Bond | Gregg | Murkowski |
| Boren | Harkin | Murray |
| Bradley | Hatch | Nickles |
| Breaux | Hatfield | Nunn |
| Brown | Hutchison | Packwood |
| Bumpers | Jeffords | Pell |
| Chafee | Johnston | Pressler |
| Coats | Kassebaum | Pryor |
| Cochran | Kennedy | Robb |
| Coverdell | Kerrey | Roth |
| Danforth | Kerry | Simon |
| Daschle | Leahy | Simpson |
| DeConcini | Lieberman | Specter |
| Dodd | Lott | Wallop |
| Dole | Lugar | Warner |
| Domenici | Mack | |
| Durenberger | Mathews | |

NAYS—38

| | | |
|---|---|---|
| Akaka | Feinstein | Moynihan |
| Boxer | Ford | Reid |
| Bryan | Glenn | Riegle |
| Burns | Heflin | Rockefeller |
| Byrd | Helms | Sarbanes |
| Campbell | Hollings | Sasser |
| Cohen | Inouye | Shelby |
| Conrad | Kempthorne | Smith |
| Craig | Kohl | Stevens |
| D'Amato | Lautenberg | Thurmond |
| Exon | Levin | Wellstone |
| Faircloth | Metzenbaum | Wofford |
| Feingold | Mikulski | |

NOT VOTING—1

Dorgan

The bill (H.R. 3450) was passed.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask unanimous consent that I be permitted to speak as in morning business for about 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1756, S. 1758, and S. 1768 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

## VIOLENT CRIME IN ALASKA

Mr. MURKOWSKI. Mr. President, it occurred to me that this would be an appropriate time to share with my colleagues a little background because often times the assumption is that crime is associated with our large inner-city areas. As a consequence, I wish to provide you with the reality that crime is all over the United States. Violent crime continues to victimize innocent Americans and it reaches as far as my home State of Alaska.

The FBI reports that the number of violent crimes increased in the United States from 1991 to 1992. Forcible rapes increased 2 percent and aggravated assaults 3 percent.

The violent crime statistics for my home State of Alaska are certainly as disturbing as the national statistics. I shall share some of these with you today.

The 1992 crime report in Alaska was compiled from uniform crime reporting data submitted by law enforcement agencies within Alaska; most major cities and more than 85 percent of our population is represented in these figures.

I have an Alaska crime clock for last year, 1992. It addresses the occurrences of various crimes.

I will start right here with the crime index.

The crime index indicates that on average one crime of either the violent or property crimes included on this chart occur every 16 minutes and 13 seconds. The statistics that make up this crime index total include violent crimes, every 2 hours and 19 minutes, which include robbery, every 13 hours and 57 minutes; murder, every 8 days and 7 hours; aggravated assault, every 3 hours and 25 minutes; and forcible rape, every 15 hours and 29 minutes. Further, the crime index includes property crimes, every 18 minutes and 23 seconds, which include burglaries, every 1 hour and 41 minutes; larceny-theft, every 25 minutes and 38 seconds; and vehicle theft, every 3 hours and 2 minutes. This is the frequency rate of annual reported crimes in my State of Alaska.

Mr. President, this chart shows the increase in select offenses in Alaska per 100,000 population. As you can see, in 2 years, these statistics increased by almost 1,000 incidents per 100,000 people.

As a consequence, Mr. President, all over the United States, there is significant increases in all types of crime. And, how we address this terrible plague on society has been addressed within this body in the last few days during the extended debate on crime legislation.

Mr. President, it is unfortunate that in our State we had a 6.8 percent increase in rapes reported in 1992 from the previous year, a total of 566 rapes.

Alaska's average rate of rape per capita per 100,000 people from 1980 to 1990 is two times greater than the Nation's average rate of rape. Alaska has ranked in the top five States in the Nation per capita for the highest rate of rape per capita over a 15-year span.

Now, the conclusion of all this is to keep in mind that while it is important that we continue to do what we can to get at the roots of this violent crime, we must recognize that our first priority must be to protect the lives of innocent Americans from the overwhelming violence that has infiltrated our society today. And my State is no exception, unfortunately.

So, Mr. President, the way to do this is simply to put our criminals in jail—identify criminals, and give them severe sentences; and discipline the juveniles delinquents in addition to letting them know that society simply will not tolerate criminal behavior.

As a consequence Mr. President, the recent action where this body has increased penalties, provided more uniformed policemen, provided more money for prisons, I hope will go a long way to bring home a message to those that are associated with criminal activity and that these individuals receive the message that society is absolutely fed up and, as a consequence, we are prepared to take such measures as are necessary to reduce the threat to those law-abiding citizens in our country and throughout our State.

## APPOINTMENT OF CONFEREES—H.R. 1025

The PRESIDING OFFICER (Mr. MATHEWS). Under the previous order, the Chair appoints the following conferees for H.R. 1025.

The Presiding Officer appointed Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. HATCH, and Mr. CRAIG conferees on the part of the Senate.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. EXON assumed the chair.)

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, are we in morning business with Senators allowed to speak therein?

The PRESIDING OFFICER. We are not.

## MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that we have a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCERNING THE ARAB BOYCOTT OF ISRAEL

The text of the concurrent resolution (S. Con. Res. 50) concerning the Arab boycott of Israel, as agreed to by the Senate on November 19, 1993, is as follows:

S. CON. RES. 50

Whereas the signing on September 13, 1993, of the Declaration of Principles between the Palestine Liberation Organization and the Government of Israel signals a new era of cooperation in the Middle East;

Whereas a true peace in the Middle East can only be established and remain in effect if there is economic stability and cooperation in the region;

Whereas adherence to the Arab League boycott of Israel is a source of economic instability in the Middle East;

Whereas the members of the Arab League instituted a primary boycott against Israel in 1948;

Whereas in the early 1950's the Arab states instituted a secondary and tertiary boycott against United States and other firms because of their commercial ties to Israel;

Whereas the boycott attempts to use economic blackmail to force United States firms to comply with boycott regulation;

Whereas the boycott was cited by the United States Trade Representative in the 1992 National Trade Estimate Report on Foreign Trade Barriers as an "additional legal restraint to United States trade in the region";

Whereas hundreds of United States firms have been blacklisted and barred from doing business with members of the Arab League under the secondary and tertiary boycott;

Whereas the total damage caused by the boycott is unknown because the number of United States firms that conduct business with Israel have not attempted commercial transactions with members of the Arab League due to the boycott is uncertain; and

Whereas the United States has a policy of prohibiting United States firms from providing Arab states with the requested information about compliance to boycott regulation: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the "Anti-Boycott Resolution of 1993".

**SEC. 2. EXPRESSION OF CONGRESSIONAL VIEWS.**

The Congress—

(1) believes the continuation of the Arab League boycott of Israel will be a severe impediment to the economic prosperity of all participating nations and to the establishment of a lasting peace and prosperity in the Middle East;

(2) believes the secondary and tertiary boycott cause substantial economic losses to United States firms;

(3) welcomes the actions by those members of the Arab League that have begun dismantling the secondary and tertiary boycott, and urges them to continue their efforts until a complete dissolution of the primary, secondary, and tertiary boycott is achieved;

(4) hopes that the indefinite postponement of the October 24, 1993, meeting of the Central Boycott Committee signals an end to the placement of more United States firms on the boycott list and a willingness to dismantle the boycott in its entirety;

(5) urges those states that have begun to or are considering dismantling all forms of the boycott to proceed promptly with such dismantlement;

(6) urges those states that are still enforcing the boycott to dismantle the boycott in all its forms and to issue the necessary laws, rules, and regulations to ensure that United States firms have free and open access to Arab markets regardless of their business relationships with Israel;

(7) urges those states, in addition, to cease enforcing and requiring participation in the boycott in its primary, secondary, and tertiary forms;

(8) urges the United States Government to continue to raise the boycott as an unfair trade practice in every appropriate international trade forum; and

(9) expresses the sense of the Congress that the end of the Arab League boycott of Israel is of great urgency to the United States Government and will continue to be a priority issue in all bilateral relations with participating states until its complete dissolution.

## COASTAL HERITAGE TRAIL ROUTE AUTHORIZATION

The text of the bill (S. 1574) to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

S. 1574

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 6 of Public Law 100-515 (16 U.S.C. 1244 note) is amended by striking "$250,000" and inserting in lieu thereof, "$2,500,000"

## NATIONAL PEARL HARBOR REMEMBRANCE DAY

The text of the joint resolution (S.J. Res. 140) to designate December 7, 1993, as "National Pearl Harbor Remembrance Day," as passed by the Senate on November 19, 1993, is as follows:

S.J. RES. 140

Whereas on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas more than 2,000 citizens of the United States were killed and more than 1,000 citizens of the United States were wounded in the attack on Pearl Harbor;

Whereas the attack on Pearl Harbor marked the entry of the United States into World War II;

Whereas the veterans of World War II and all other people of the United States commemorate December 7 in remembrance of the attack on Pearl Harbor; and

Whereas commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the Armed Forces of the United States during World War II: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That December 7, 1993, is designated as "National Pearl Harbor Remembrance Day". The President is authorized and requested—

(1) to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities; and

(2) to urge all Federal agencies and interested organizations, groups, and individuals,

to fly the flag of the United States at half staff on December 7, 1993, in honor of the individuals who died as a result of their service at Pearl Harbor.

## THE HAZARD MITIGATION AND RELOCATION ASSISTANCE ACT OF 1993

The text of the bill (S. 1670) to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

S. 1670

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Hazard Mitigation and Relocation Assistance Act of 1993".

**SEC. 2. HAZARD MITIGATION.**

(a) FEDERAL SHARE AND TOTAL CONTRIBUTIONS.—Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) in the first sentence, by striking "50 percent" and inserting "75 percent"; and

(2) in the last sentence, by striking "10 percent" and all that follows through the end of the sentence and inserting "15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.".

(b) APPLICABILITY.—The amendments made by this section shall apply to any major disaster declared by the President pursuant to The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.

**SEC. 3. PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.**

Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The President"; and

(2) by adding at the end the following new subsection:

"(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

"(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

"(2) TERMS AND CONDITIONS.—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

"(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

"(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Director that provides assurances that—

"(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

"(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

"(I) a public facility that is open on all sides and functionally related to a designated open space;

"(II) a rest room; or

"(III) a structure that the Director approves in writing before the commencement of the construction of the structure; and

"(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

"(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

"(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

"(3) STATUTORY CONSTRUCTION.—Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.".

**SEC. 4. TREATMENT OF REAL PROPERTY BUYOUT PROGRAMS.**

(a) INAPPLICABILITY OF URA.—The purchase of any real property under a qualified buyout program shall not constitute the making of Federal financial assistance available to pay all or part of the cost of a program or project resulting in the acquisition of real property or in any owner of real property being a displaced person (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

(b) DEFINITION OF "QUALIFIED BUYOUT PROGRAM".—For purposes of this section, the term "qualified buyout program" means any program that—

(1) provides for the purchase of only property damaged by the major, widespread flooding in the Midwest during 1993;

(2) provides for such purchase solely as a result of such flooding;

(3) provides for such acquisition without the use of the power of eminent domain and notification to the seller that acquisition is without the use of such power;

(4) is carried out by or through a State or unit of general local government; and

(5) is being assisted with amounts made available for—

(A) disaster relief by the Federal Emergency Management Agency; or

(B) other Federal financial assistance programs.

## EXTENSION OF COURT-ANNEXED ARBITRATION

The text of the bill (S. 1732) to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

S. 1732

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF ARBITRATION.**

(a) AMENDMENT OF REPEAL.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note; Public Law 100-702; 102 Stat. 4664) is amended in the first sentence by striking out "5 years after the date of the enactment of this Act" and inserting in lieu thereof "December 31, 1994".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note; Public Law 100-702; 102 Stat. 4664) is amended in the first sentence by striking out "4" and inserting in lieu thereof "7".

## CONCERNING THE INTERNATIONAL YEAR OF THE WORLD'S INDIGENOUS PEOPLES

The text of the concurrent resolution (S. Con. Res. 44) to express the sense of Congress concerning the International Year of the World's Indigenous Peoples, as passed by the Senate on November 19, 1993, is as follows:

S. CON. RES. 44

Whereas United Nations Resolution 45/164 of December 18, 1990, proclaimed the year 1993 as the International Year of the World's Indigenous Peoples, in order to strengthen international cooperation for a solution to the problems faced by indigenous communities in areas such as human rights, the environment, development, education, and health;

Whereas indigenous peoples are descendants of the original inhabitants of many countries with diverse cultures, religions, languages, and social and economic customs;

Whereas an estimated 300 million indigenous peoples live in more than 70 countries, including the United States;

Whereas indigenous peoples are often disadvantaged and face common difficulties in their homelands, including issues such as self-determination, the preservation of land and natural resources, the preservation of culture, arts, and language, and dismal social and economic conditions;

Whereas many indigenous peoples continue to face discrimination and exploitation in their homelands;

Whereas the rights and social and economic conditions of indigenous peoples have often been overlooked by individual nations and the international community; and

Whereas the United Nations Working Group on Indigenous Populations has drafted a Declaration on the Rights of Indigenous Peoples: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that—

(1) the United States should cooperate with the United Nations in its efforts to raise the level of public interest in and consciousness of the problems of indigenous peoples;

(2) the United States should address the rights and improve the social and economic conditions of its own indigenous peoples, including Native American Indians, Alaska Natives, Native Hawaiians, Chamorros, American Samoans, and Palauans;

(3) the United States should support the United Nations in its efforts to establish international standards on the rights of indigenous peoples; and

(4) the United States recognizes that the year 1993 is an insufficient time period for promoting public awareness of the plight of indigenous peoples and urges the United Nations to proclaim an International Decade of the World's Indigenous Peoples.

## TRADING WITH INDIANS ACT OF 1993

The text of the bill (S. 1501) to repeal certain provisions of law relating to trading with Indians, as passed by the Senate on November 19, 1993, is as follows:

S. 1501

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPEAL.**

Section 437 of title 18, United States Code, is repealed.

## THE DOE NATIONAL COMPETITIVENESS TECHNOLOGY PARTNERSHIP ACT

The text of the bill (S. 473) to promote industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes, as passed by the Senate on November 19, 1993, is as follows:

[The bill, S. 473, will appear in a subsequent issue of the RECORD.]

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT OF PROPOSED LEGISLATION ENTITLED "THE HEALTH SECURITY ACT OF 1993"—MESSAGE FROM THE PRESIDENT—PM 74

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

*To the Congress of the United States:*

I am pleased to transmit today to the Congress the "Health Security Act of 1993."

This legislation holds the promise of a new era of security for every American—an era in which our Nation finally guarantees its citizens comprehensive health care benefits that can never be taken away.

Today, America boasts the world's best health care professionals, the finest medical schools and hospitals, the most advanced research, and the most sophisticated technology. No other health care system in the world exceeds ours in the level of scientific knowledge, skill, and technical resources.

And yet, the American health care system is badly broken. Its hallmarks are insecurity and dangerously rising costs.

For most Americans the fear of losing health benefits at some time has become very real. Our current health insurance system offers no protection for people who lose their jobs, move, decide to change jobs, get sick, or have a family member with an illness. One out of four Americans is expected to lose insurance coverage in the next 2 years, many never to be protected again. Altogether, more than 37 million Americans have no insurance and another 25 million have inadequate health coverage.

Rising health care costs are threatening our standard of living. The average American worker would be making $1,000 a year more today if health care accounted for the same proportion of wages and benefits as in 1975. Unless we act, health care costs will lower real wages by almost $600 per year by the end of the decade and nearly $1 in every $5 Americans spend will go to health care.

Small businesses create most of the new jobs in America and while most want to cover their employees, more and more cannot. Under the current health care system, cost pressures are forcing a growing number of small business owners to scale back or drop health insurance for their employees. Small businesses spend 40 cents of every health insurance dollar for administration—eight times as much as large companies. And only 1 in every 3 companies with fewer than 500 workers today offers its employees a choice of health plan.

Our health care system frustrates those who deliver care. Doctors and nurses are drowning in paperwork, and hospitals are hiring administrators at 4 times the rate of health care professionals. The system places decisions that doctors should be making in the hands of distant bureaucrats. Its incentives are upside down; it focuses on treating people only after they get sick, and does not reward prevention.

Clearly, our challenges are great. This legislation is sweeping in its ambition and simple in its intent: to preserve and strengthen what is right about our health care system and fix what is wrong.

Our needs are now urgent. A Nation blessed with so much should not leave so many without health security.

This legislation draws upon history. It reflects the best ideas distilled from decades of debate and experience.

It reflects the sense of responsibility that President Franklin Roosevelt called for when he launched the Social Security program in 1933 and recommended that health care be included.

It reflects the vision of President Harry Truman, who in 1946 became the first President to introduce a plan for national health reform.

It reflects the pragmatism of President Richard Nixon, who in 1972 asked all American employers to take responsibility and contribute to their workers' health care.

And it reflects the ideas and commitment of generations of Congressional leaders who have fought to build a health care system that honors our Nation's commitments to all its citizens.

Today America stands ready for reform. For the first time, members of both parties have agreed that every American must be guaranteed health care. An opportunity has been placed before us. We must not let it pass us by.

This legislation builds on what's best about the American health care system. It maintains and strengthens America's private health care. It extends the current system of employer-based coverage that works so well for so many. It protects our cherished right to choose how we are cared for and who provides that care. It invests in improving the quality of our care.

This legislation recognizes that America cannot, and need not, adopt one model of health care reform. It allows each State to tailor health reform to its unique needs and characteristics, as long as it meets national guarantees for comprehensive benefits, affordability, and quality standards. It establishes a national framework for reform, but leaves the decisions about care where they belong—between patients and the health care professionals they trust.

Under this legislation, every citizen and legal resident will receive a Health Security Card that guarantees the comprehensive benefits package. People will be able to follow their doctor into a traditional fee-for-service plan, join a network of doctors and hospitals, or become members of a Health Maintenance Organization. Like today, almost everyone will be able to sign up for a health plan where they work. Unlike today, changes in employment or family status will not necessarily force a change in health coverage.

The self-employed and the unemployed will receive their health coverage through the regional health alliance, a group run by consumers and business leaders, that will contract with and pay health plans, provide information to help consumers choose plans, and collect premiums. The largest corporations—those employing 5,000 workers or more—will have the option of continuing to self-insure their employees or joining a regional alliance.

The legislation is financed by three sources: requiring every employer and individual to contribute to paying the

cost of health care; raising excise taxes on tobacco and requiring small contributions from large corporations, which form their own health alliance; and slowing the growth in spending on Federal health care programs. Enormous efforts have been made to ensure that the financing is sound and responsible.

The Health Security Act is based upon six principles: security, simplicity, savings, quality, choice, and responsibility.

Security. First and foremost, this legislation guarantees security by providing every American and legal resident with a comprehensive package of health care benefits that can never be taken away. That package of benefits, defined by law, includes a new emphasis on preventive care and offers all Americans prescription drug benefits.

Under this legislation, insurers will no longer be able to deny anyone coverage, impose lifetime limits, or charge people based on their health status or age. The legislation also limits annual increases in health care premiums, and sets maximum amounts that families will spend out-of-pocket each year, regardless of how much or how often they receive medical care.

The legislation will preserve and strengthen Medicare, adding new coverage for prescription drugs. To meet the growing needs of older Americans and people with disabilities, a new long-term care initiative will expand coverage of home and community-based care.

The legislation also provides residents of underserved rural and urban areas with better access to quality care. It also offers incentives for health professionals to practice in these areas, builds urban-rural health care networks, and protects those doctors, hospitals, clinics, and others who care for people in underserved areas.

Simplicity. To relieve consumers, business and health professionals of the burdens of excess paperwork and bureaucracy, this legislation simplifies our health care system. It requires all health plans to adopt a standard claim form; creates a uniform, comprehensive benefits package; and standardizes billing and coding procedures.

Savings. The legislation promotes true competition in the health care marketplace. It increases the buying power of consumers and businesses by bringing them together in health alliances. Health plans will no longer succeed by trying to pick only healthy people to insure; they will have to compete on price and quality. This competition will be backed up by enforceable premium caps.

This legislation also criminalizes health fraud, imposing stiff penalties on those who cheat the system. And it takes steps to reduce "defensive medicine" and discourage frivolous medical malpractice lawsuits by requiring patients and doctors to try to settle disputes before they end up in court, and by limiting lawyers' fees.

Quality. The legislation empowers consumers and health care professionals by providing information on quality standards and treatment results. It calls for new investments in medical research, including heart disease, bone and joint disease, Alzheimer's disease, cancer, AIDS, birth defects, mental disorders, substance abuse, and nutrition. To help keep people healthy, rather than only treating them after they get sick, the legislation pays fully for a wide range of preventive services and offers new incentives to educate primary care doctors, nurses, and other family practitioners.

Choice. Through comprehensive reform, the legislation gives Americans a new level of control over their health care choices. It ensures that people can follow their doctor and his or her team into any plan they choose to join. It transfers the choice of health plan from the employer to the individual, and guarantees a choice of health plans, including at least one traditional fee-for-service plan. Doctors and health professionals may participate in multiple health plans if they wish.

Responsibility. Under this legislation, every employer and individual will be required to pay for health coverage, even if that contribution is small. It extends the current employer-based system for financing health coverage—a system that now serves 9 of every 10 Americans who now have health insurance. To ensure affordability, small businesses, low-wage employers, and low-income individuals and families will get substantial discounts.

This legislation will strengthen our economy. Our current system is so much more costly than any other system in the world, and the American people should not be asked to pay huge new taxes in order to afford health care reform. This plan raises no new broad-based taxes, but spends our health care dollars more wisely. It levels the playing field for small businesses, making it possible for them to insure their families and employees. It eases the tremendous burden of rising health costs on big business, helping them to compete for global markets. And by bringing the explosive growth in health costs under control, it sets us in the right direction of reducing our national debt.

The legislation restores common sense to American health care. It borrows from what works today, letting us phase in change at a reasonable pace and adjust our course if needed. It builds on what works best—and makes it work for everyone. Our task now is to work together, to leave behind decades of false starts and agree on health care reform that guarantees true security. The time for action is now. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 20, 1993.*

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 1:06 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that Speaker has signed the following enrolled bills and joint resolution:

H.R. 914. An Act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes.

H.R. 2650. An Act to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems.

H.R. 3161. An Act to made technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes.

S. 433. An Act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

S. 1667. An Act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months.

S.J. Res. 55. Joint Resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

S.J. Res. 75. Joint Resolution designating January 2, 1994, through January 8, 1994, as 'National Law Enforcement Training Week."

S.J. Res. 122. Joint Resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. BYRD).

The message also that House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 322. An Act to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

H.R. 783. An Act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

H.R. 897. An Act to amend title 17, United States Code, to modify certain registration requirements, and for other purposes.

H.R. 1237. An Act to establish procedures for national criminal background checks for child care providers.

H.R. 3351. An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

H.R. 3378. An Act to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes.

H.J. Res. 216. Joint Resolution designating January 16, 1994, as "Religious Freedom Day".

The message further announced that the House has passed the following bill, without amendment:

S. 1670. An Act to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes.

At 5:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 58. An Act to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations.

H.R. 324. An Act to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole or supervision.

H.R. 1133. An Act to combat violence and crimes against women.

H.R. 1250. An Act to amend the coastwise trade laws to clarify their application to certain passenger vessels.

H.R. 1994. An Act to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes.

H.R. 2457. An Act to direct the Secretary of the Interior to conduct a salmon captive broodstock program.

H.R. 2811. An Act to authorize certain atmospheric, weather, and satellite programs and functions of the National Oceanic and Atmosphere Administration, and for other purposes.

H.R. 3098. An Act to amend title 18, United States Code, to prohibit the possession of a handgun or hand ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile.

H.R. 3402. An Act to establish a fountain darter captive propagation research program.

H.R. 3512. An Act to abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council.

H.R. 3515. An Act to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these Acts and to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1507) to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

## MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3351. An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of development alternative methods of punishment for young offenders to traditional forms of incarceration and probation; to the Committee on the Judiciary.

## ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on November 20, 1993, he had presented to the President of the United States, the following enrolled bills and joint resolutions:

S. 433. An Act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

S. 1667. An Act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months.

S.J. Res. 55. Joint Resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

S.J. Res. 75. Joint Resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

S.J. Res. 122. Joint Resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Linda Hall Daschle, of South Dakota, to be Deputy Administrator of the Federal Aviation Administration.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Jeanne Hurley Simon, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1997.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments and an amendment to the title:

S. 431. An Act to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection (Rept. No. 103-197).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1052. A bill to authorize appropriations for fiscal years 1994 and 1995 for the Coast Guard, and for other purposes (Rept. No. 103-198).

S. 738. A bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers (Rept. No. 103-199).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1569. A bill to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes (Rept. No. 103-200).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1126. A bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes (Rept. No. 103-201).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1458. A bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes (Rept. No. 103-202).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 687. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes (Rept. No. 103-203).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 1736. A bill to amend the Internal Revenue Code of 1986 to enhance the Nation's energy security by promoting renewable energy resources and energy conservation; to the Committee on Finance.

By Mr. McCAIN:

S. 1737. A bill to establish the Office of the Inspector General within the General Accounting Office, modify the procedure for congressional work requests for the General Accounting Office, establish a Peer Review Committee, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 1738. A bill to amend the Social Security Act to extend for 3 years the provision for compensation of qualified organizations serving as representative payees, and for other purposes; to the Committee on Finance.

By Mr. PRYOR:

S. 1739. A bill to suspend temporarily the duty on lambdacyhalothrin; to the Committee on Finance.

S. 1740. A bill to suspend temporarily the duty on Diquat Dibromide; to the Committee on Finance.

By Mr. McCAIN:

S. 1741. A bill to provide for the establishment of business accounts for air travel by Federal employees to maximize costs savings, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROCKEFELLER:

S. 1742. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. HATCH, Mr. MACK, Mr. BENNETT, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. DOLE, Mr. FAIRCLOTH, Mr. GREGG, Mr. HELMS, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. LOTT, Mr. LUGAR, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. GRASSLEY):

S. 1743. A bill to provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans, and for other purposes; to the Committee on Finance.

By Ms. MOSELEY-BRAUN:

S. 1744. A bill to establish a National Commission on Financial Services to study the strength and weaknesses of the United States financial services system and its ability to meet the needs of the United States economy and the needs of users of the United States financial services system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRYAN:

S. 1745. A bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress for retirement purposes; to the Committee on Governmental Affairs.

By Mrs. KASSEBAUM (for herself, Mr. DODD, Mr. INOUYE, Mr. STEVENS, and Mr. DURENBERGER):

S. 1746. A bill to establish a youth development grant program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 1747. A bill to provide for enforcement of State court judgements against federally forfeited assests of individuals who are delinquent in payment of child support; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 1748. A bill to provide procedures for the contribution of volunteer United States military personnel to international peacekeeping or peacemaking operations; to the Committee on Foreign Relations.

By Mr. PACKWOOD (for himself, Mr. BREAUX, Mr. HEFLIN, and Mr. MURKOWSKI):

S. 1749. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers, and importers from the firearms excise tax; to the Committee on Finance.

By Mr. METZENBAUM:

S. 1750. A bill to transfer certain food safety and inspection functions to the Consumer Product Safety Commission, to establish an Office of Public Liaison, and to require the development of certain plans, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCAIN:

S. 1751. A bill to amend the National Wool Act of 1954 to provide that the reduction in the support price for wool and mohair programs do not apply to households who are participating, or are eligible to participate, in the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1752. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1753. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1754. A bill regarding the suspension of duty on diflunisal; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1755. A bill amend the Internal Revenue Code of 1986 to promote and improve employee ownership in the United States; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 1756. A bill to encourage the optimum utilization of fisheries resources, to reduce waste in commercial fish harvesting and processing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. AKAKA, Mr. BAUCUS, Mrs. BOXER, Mr. BUMPERS, Mr. CAMPBELL, Mr. CONRAD, Mr. DODD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LEVIN, Mr. MATHEWS, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. SIMON, and Mr. WOFFORD) (by request):

S. 1757. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

By Mr. MURKOWSKI:

S. 1758. A bill to establish a Stewardship Endowment Fund to fund activities for the restoration of injured natural resources in Alaska resulting from the T/V EXXON VALDEZ oil spill, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, Mr. SIMON, Mr. METZENBAUM, and Mr. MCCONNELL):

S. 1759. A bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to inititate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. SIMPSON, and Mrs. BOXER):

S. 1760. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. MURRAY (for herself and Mr. HATFIELD):

S. 1761. A bill to provide early out authority for Forest Service employees; considered and passed.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mrs. KASSEBAUM):

S. 1762. A bill to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements; considered and passed.

By Ms. MIKULSKI (for herself, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1763. A bill to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations; considered and passed.

By Mr. BIDEN:

S. 1764. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; considered and passed.

By Mr. MITCHELL (for himself and Mr. BAUCUS):

S. 1765. To designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes; considered and passed.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1766. A bill to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes; considered and passed.

By Mr. GORTON (for himself, Mr. LEVIN, Mr. RIEGLE, Mr. FEINGOLD, and Mr. KOHL):

S. 1767. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes; considered and passed.

By Mr. MURKOWSKI:

S. 1768. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 172. A resolution providing that notwithstanding the sine die adjournment; the President of the Senate, the President Pro-tempore, the Majority and Minority Leaders are authorized to make appointments to commissions, committee, boards, or conferences; considered and agreed to.

S. Res. 173. A resolution to extend the time of the Senate Ethics Study Commission for making its findings and recommendations to the leadership; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 1736. A bill to amend the Internal Revenue Code of 1986 to enhance the Nation's energy security by promoting renewable energy resources and energy conservation; to the Committee on Finance.

ENERGY AND ENVIRONMENT TAX ACT OF 1993

Mr. DASCHLE. Mr. President, before the session comes to a close, I would like to introduce a measure for consideration next year.

During my 7-year tenure as a member of the Senate Finance Committee, numerous tax measures have been considered that would promote our Nation's energy and environmental goals. Some of these measures have been my own, but many have been proposed by other members who share my interest in this area.

During this time, I have become convinced that energy and environmental legislation should go hand-in-hand. Every item of energy legislation should be considered in light of environmental concerns, and every item of environmental legislation should be viewed in terms of our energy policy goals. There may be a few areas where there will be no overlap, but we simply cannot fail at least to ask the question of whether legislation in either of these areas is consistent with our goals in the other.

At a minimum, linking energy and environmental policies will help us to avoid establishing counterproductive and inconsistent incentives in the law. More importantly, addressing energy and environmental policy together may encourage the development of new proposals that address goals in both areas.

Concerns raised about the consequences of our current patterns of energy use on global warming, acid rain, and other forms of air pollution, and about our persistent and economically debilitating dependence on foreign oil, demonstrate that we as a Nation must make greater strides toward constructing an environmentally and economically sensible energy policy. Vast opportunity exists to improve upon our current patterns of energy generation and use, and I intend to do whatever I can to ensure, at a minimum, that the Tax Code promotes environmentally responsible energy policies.

Specifically, there are two areas where energy and environmental policy seem particularly connected—renewable energy and energy conservation. The legislation I am introducing today—the Energy and Environment Tax Act of 1993—deals with those two areas. It is not comprehensive, but its provisions are roughly grouped into tax measures that promote renewable energy and those that promote energy conservation.

The renewable energy measures include minor incentives for solar, geothermal, and wind energy, as well as renewable alcohol fuels, including biodiesel. The conservation measures will encourage utilities' conservation programs, electric mass transit vehicles, soil and water conservation, and other measures to preserve the environment.

Renewable energy is critical to our national energy security. Yet, even a cursory glance at the Internal Revenue Code reveals a gross imbalance in tax expenditures between nonrenewable and renewable energy technologies. Without commenting on the merits of specific provisions, I strongly question the wisdom of spending so much on nonrenewable energy, while investing next to nothing in renewable energy by comparison. This is an extraordinarily short-sighted approach.

Interestingly, many forms of renewable energy—ether fuel additives, solar, and wind power, to name a few—also have significant advantages for the environment. A dollar invested in renewable energy, therefore, pay off in terms of both energy security and an improved environment.

Likewise, conserving existing energy resources promotes our national energy security, while enhancing the environment. Yet, again, our Tax Code does not reflect the importance of energy conservation.

Ironically, most of the tax measures to promote renewable energy and encourage energy conservation cost relatively little compared to the existing tax incentives for nonrenewable forms of energy. It doesn't take much to tip the balance so that emerging technologies can become financially viable—or so that utilities can expand their conservation programs. And the savings to the environment and to our national security cannot be measured in dollars.

Nonetheless, I am very sensitive to budgetary concerns and intend to ask the Joint Committee on Taxation to prepare a section-by-section revenue estimate of this legislation. Once that has been done, I will propose offsets for the cost of these measures.

The time has come to put the Nation's energy policy squarely in the context of improving environmental quality. The tax code can and should be designed to encourage investment in environmentally responsible energy production and in improving energy conservation and efficiency. So much remains to be achieved that we cannot delay. If we are successful, we stand to gain a greater measure of control over our Nation's energy supply, clean the air that lingers over our polluted cities, and ease the financial drain we all feel when it comes time to pay the energy bill.

Mr. President, I request that the text of this legislation along with a summary of its provisions be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1736

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the "Energy and Environment Tax Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**TITLE I—INCENTIVES FOR RENEWABLE ENERGY RESOURCES**

**SEC. 101. ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.**

(a) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the alcohol fuels credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) 50 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the alcohol fuels credit).

"(B) ALCOHOL FUELS CREDIT.—For purposes of this subsection, the term 'alcohol fuels credit' means the portion of the credit under subsection (a) which is attributable to the alcohol fuels credit determined under section 40(a)."

(b) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting "or the alcohol fuels credit" after "empowerment zone employment credit".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

(2) EXCEPTION.—The amendment made by this section shall not apply to—

(A) any credit which was determined in a taxable year, or

(B) the portion of any credit which is carried back to a taxable year,

beginning on or before December 31, 1993.

**SEC. 102. ENERGY CREDIT ALLOWED AGAINST MINIMUM TAX.**

(a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 101, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) RULES FOR APPLICATION OF ENERGY CREDIT.—

"(i) IN GENERAL.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) ENERGY CREDIT.—For purposes of this subsection, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a)."

(b) CONFORMING AMENDMENTS.—

(1) Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 101(b), is amended by striking "or the alcohol fuels credit" and inserting ", the alcohol fuels credit, or the energy credit".

(2) Subclause (II) of section 38(c)(3)(A)(ii), as added by section 101(a), is amended by inserting "or the energy credit" after "alcohol fuels credit".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

(2) EXCEPTION.—The amendment made by this section shall not apply to—

(A) any credit which was determined in a taxable year, or

(B) the portion of any credit which is carried back to a taxable year,

beginning on or before December 31, 1993.

**SEC. 103. TAX CREDIT FOR BIODIESEL FUELS.**

(a) IN GENERAL.—Section 40 (relating to credit for alcohol used as a fuel) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR BIODIESEL.—

"(1) IN GENERAL.—In the case of biodiesel used as a component of, or replacement for, diesel fuel (as defined in section 4083(a)(3))—

"(A) the biodiesel shall be treated in the same manner as alcohol for purposes of this section, and

"(B) subsection (h) shall apply in computing the amount of any credit under this section with respect to the biodiesel.

"(2) BIODIESEL.—For purposes of this subsection, the term 'biodiesel' means a liquid derived from biological materials (other than alcohol) for use in compression ignition engines."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to biodiesel produced, and sold or used, in taxable years beginning after December 31, 1993.

**SEC. 104. REPEAL OF ALCOHOL FUEL CREDIT INCOME INCLUSION FOR BIODIESEL AND CERTAIN ALCOHOLS.**

(a) IN GENERAL.—Section 87 (relating to inclusion in income of the alcohol fuels credit) is amended by adding at the end the following new subsection:

"(b) EXCEPTION FOR BIODIESEL AND CERTAIN ALCOHOL-BASED ETHERS.—Subsection (a) shall not apply to any portion of the alcohol fuel credit determined for the taxable year under section 40(a) which is attributable to—

"(1) biodiesel (as defined in section 40(i)(2)),

"(2) ethanol which is used to produce ethyl tertiary butyl ether, or

"(3) alcohol which is used to produce any ether derived from alcohol in a chemical reaction in which there is no significant loss in the energy content of the alcohol."

(b) CONFORMING AMENDMENT.—Section 87 is amended by striking "Gross" and inserting:

"(a) IN GENERAL.—Gross".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

**SEC. 105. SMALL WIND TURBINES ELIGIBLE FOR ENERGY CREDIT.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) equipment which uses wind energy to generate electricity but only if such equipment has a rated capacity of 50 kilowatts or less and is not primarily used in the trade or business of producing electricity for sale to an unrelated person, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 1993.

**SEC. 106. CLARIFICATION OF APPLICATION OF ENERGY CREDIT TO PROPERTY USING SOLAR ENERGY.**

(a) IN GENERAL.—Paragraph (3) of section 48(a) (relating to energy credit) is amended by adding at the end the following: "For purposes of subparagraph (A)(i), equipment shall be treated as using solar energy if its average annual use of energy from sources other than solar energy does not exceed 50 percent of its total energy input."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 1993.

## TITLE II—INCENTIVES TO PROMOTE ENERGY CONSERVATION

**SEC. 201. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC AND GAS UTILITIES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 197 the following new section:

**"SEC. 198. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC AND GAS UTILITIES.**

"(a) GENERAL RULE.—In the case of an electric or gas utility, there shall be allowed as a deduction for the taxable year an amount equal to the energy conservation expenditures paid or incurred by the taxpayer during such taxable year.

"(b) ENERGY CONSERVATION EXPENDITURES.—For purposes of this section, the term 'energy conservation expenditures' means expenditures for—

"(1) subsidies provided directly or indirectly to customers for the purchase, installation, or modification of—

"(A) any device or service primarily designed to reduce consumption of electricity, natural gas, or steam or to improve the management of energy demand, or

"(B) any specially defined energy property (as defined in section 136(c)(2)(A)),

"(2) energy use consulting and audits of commercial, residential, and industrial properties, or

"(3) administrative, promotional, and other costs associated with expenditures described in paragraph (1) or (2).

Such term shall not include any expenditure taken into account in determining the basis of any tangible property which is owned by the taxpayer and which is of a character subject to the allowance for depreciation.

"(c) ELECTRIC OR GAS UTILITY.—For purposes of this section, the term 'electric or gas utility' means any corporation engaged in the furnishing or sale of electric energy, natural gas, or steam if the rates for such furnishing or sale have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public utility or public service commission or other similar body of any State or political subdivision thereof or of the District of Columbia."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 263(a) is amended by striking "; or" at the end of subparagraph (F) and inserting a comma, by striking the period at the end of subparagraph (G) and inserting ", or", and by adding at the end the following new subparagraph:

"(H) expenditures for which a deduction is allowed under section 198."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 198. Energy conservation expenditures by electric and gas utilities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 1980.

**SEC. 202. LARGE ELECTRIC TRUCKS, VANS, AND BUSES ELIGIBLE FOR DEDUCTION FOR CLEAN-FUEL VEHICLES.**

(a) DEDUCTION ALLOWED IN LIEU OF CREDIT.—Subsection (c) of section 30 is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR TRUCKS, VANS, AND BUSES.—The term 'qualified electric vehicle' shall not include any vehicle described in subclause (I) or (II) of section 179A(b)(1)(A)(iii)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1993.

**SEC. 203. CREDIT FOR PROPERTY USED IN CERTAIN AGRICULTURE-RELATED ACTIVITIES TO CONTROL ENVIRONMENTAL POLLUTION AND FOR SOIL AND WATER CONSERVATION EXPENDITURES.**

(a) IN GENERAL.—Section 46 (relating to amount of investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) in the case of an eligible taxpayer (as defined in section 48(c)), the agricultural environmental credit."

(b) AGRICULTURAL ENVIRONMENTAL CREDIT.—Section 48 is amended by adding at the end the following new subsection:

"(c) AGRICULTURAL ENVIRONMENTAL CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, in the case of an eligible taxpayer, the agricultural environmental credit for any taxable year is equal to the lesser of—

"(A) the sum of—

"(i) 15 percent of the aggregate bases of all agricultural environmental properties placed in service by the taxpayer during such taxable year, and

"(ii) 15 percent of the amount allowed as a deduction under section 175 (determined without regard to paragraph (4)(B)) for such taxable year, or

"(B) the lesser of—

"(i) $15,000, or

"(ii) the excess of—

"(I) $150,000, over

"(II) the amount of the credit taken into account under this section by the taxpayer for taxable years preceding the taxable year.

"(2) ELIGIBLE TAXPAYER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'eligible taxpayer' means any taxpayer primarily engaged in a farming-related business.

"(B) FARMING-RELATED BUSINESS.—For purposes of this subsection, the term 'farming-related business' means—

"(i) a farming business (as defined in section 263A(e)(4)),

"(ii) a trade or business of mixing fertilizers from purchased fertilizer materials, and

"(iii) a trade or business of the wholesale distribution of animal feeds, fertilizers, agricultural chemicals, pesticides, seeds, or other farm supplies (other than grains).

"(3) AGRICULTURAL ENVIRONMENTAL PROPERTY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'agricultural environmental property' means any new identifiable treatment facility—

"(i) which is used in a farming-related business for the primary purpose of complying with Federal, State, and local environmental laws dealing with the abatement or control of water, soil, or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat, and

"(ii) which does not significantly—

"(I) increase the output or capacity, extend the useful life, or reduce the total operating costs of plant or property to which such facility relates, or

"(II) alter the nature of any manufacturing or production process or facility.

"(B) NEW IDENTIFIABLE TREATMENT FACILITY.—The term 'new identifiable treatment facility' has the meaning given such term by section 169(e)(4)(A), determined by substituting 'December 31, 1993' for 'December 31, 1968' each place it appears.

"(4) SPECIAL RULES.—

"(A) COORDINATION WITH ENERGY AND REHABILITATION CREDITS.—This subsection shall not apply to—

"(i) any property to the extent the basis of such property is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)), or

"(ii) energy property.

"(B) COORDINATION WITH DEDUCTION FOR SOIL AND WATER CONSERVATION EXPENDITURES.—The amount which would (but for this subparagraph) be allowed as a deduction under section 175 for any taxable year shall be reduced by the lesser of the amount of the credit determined under paragraph (1)(A)(ii) for the taxable year or the credit allowed under paragraph (1) for the taxable year.

"(C) COORDINATION WITH AMORTIZATION OF POLLUTION CONTROL FACILITIES.—This subsection shall not apply to any property to the extent an election is made under section 169 with respect to the basis of such property."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 48 is amended to read as follows:

**"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; AGRICULTURAL ENVIRONMENTAL CREDIT."**

(2) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended to read as follows:

"Sec. 48. Energy credit; reforestation credit; agricultural environmental credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1993, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 204. AMORTIZATION OF POLLUTION CONTROL FACILITIES.**

(a) IN GENERAL.—Paragraph (1) of section 169(d) (defining certified pollution control facility) is amended by striking "January 1, 1976" and inserting "January 1, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to additions to basis in taxable years beginning after December 31, 1993.

SUMMARY OF "THE ENERGY AND ENVIRONMENT TAX ACT OF 1993"

TITLE I: RENEWABLE ENERGY RESOURCES

Sec. 101 *Alcohol Fuels Credit May Offset Minimum Tax.*—Would allow otherwise qualified taxpayers that fall under the Alternative Minimum Tax (AMT) to take advantage of the existing alcohol fuels tax credit. The credit could not reduce a taxpayer's minimum tax liability by more than 50% in any given year.

Sec. 102 *Solar and Geothermal Investment Tax Credit Allowed Against Minimum Tax.*—Would permit otherwise qualified businesses that are subject to the Alternative Minimum Tax (AMT) to take advantage of the existing investment tax credit for solar and geothermal energy facilities.

Sec. 103 *Biodiesel Tax Credit.*—Would establish a new tax credit for taxpayers that produce biodiesel fuels. The credit would apply only with respect to the "renewable" portion of the fuel.

Sec. *104 Repeal of Alcohol Fuels and Biodiesel Tax Credit Income Inclusion.*—Would exclude both the alcohol fuels credit and the new biodiesel credit from a provision of the tax code that requires such credits to be included in taxable income.

Sec. 105 *Small Wind Turbines Eligible for Investment Tax Credit.*—Would allow businesses that invest in small wind turbines (rated capacity of 50 kilowatts or less) a 10% tax credit based on the amount of their investment. The credit is designed to encourage use of wind turbines by businesses for their own internal energy needs and, therefore, is not available where the energy generated is sold to others.

Sec. 106 *Clarification of Application of Solar Credit.*—Would clarify that equipment qualifies for the existing solar investment tax credit as long as its average annual use of energy from sources other than solar energy does not exceed 50% of its total energy output.

TITLE II: ENERGY CONSERVATION

Sec. 201 *Energy Conservation Expenditures of Electric and Gas Utilities.*—Would clarify that electric and gas utilities may deduct the full cost of conservation program expenditures in the year in which they are paid or incurred, rather that spreading the deduction ratably over a period of years.

Sec. 202 *Large Electric Trucks, Vans, and Buses Eligible for Deduction for Clean-Fuel Vehicle.*—Would allow electric trucks, vans and buses to qualify for the applicable $50,000 deduction currently available for clean-fuel vehicles.

Sec. 203 *Credit for Property Used in Certain Agriculture-Related Activities to Control Environmental Pollution and for Soil and Water Conservation Expenditures.*—Would provide a 15% credit against income tax for any new machinery, equipment, building, or other structure which is used in a farming-related business for the primary purpose of complying with federal, state, and local environmental laws. The credit would be capped at $15,000 per year, with a lifetime limitation of $150,000.

Sec. 204 *Amortization of Pollution Control Facilities.*—Would extend the existing deduction for the cost of pollution abatement property to plants or property in operation before January 1, 1994. (Current provision only applies to plants or property in operation before January 1, 1976.)

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By Mr. McCAIN:

S. 1737. A bill to establish the Office of the Inspector General within the General Accounting Office, modify the procedure for congressional work requests for the General Accounting Office, establish a peer review committee, and for other purposes; to the Committee on Governmental Affairs.

GENERAL ACCOUNTING OFFICE OVERSIGHT AND IMPROVEMENT ACT OF 1993

• Mr. McCAIN. Mr. President, today, I am introducing the General Accounting Office Oversight and Reform Act of 1993.

Congress established the GAO in 1921 to assist the legislative branch in its oversight of Federal agencies. As Congress' watchdog, auditor, and analyst the GAO can have significant influence on our Nation's policy, legislative agenda, and political discourse.

Because the GAO's mission is so important, we have an obligation to ensure that the agency meets our highest standards of excellence and maintains a reputation beyond reproach.

Unfortunately, in recent years, numerous complaints about bias, partisanship, and inferior work quality have dogged the agency. I'm troubled by these complaints and believe that even the perception of a problem at the GAO must be addressed promptly. The legislation I am introducing today will take the necessary remedial steps. It would institute independent oversight of the agency and bolster the GAO's internal quality control procedures.

First, Mr. President, the legislation seeks to create an independent Office of the Inspector General within the GAO. Inspectors General play a vital oversight function at most Government agencies, including the Library of Congress and the Government Printing Office.

The GAO has nearly 5,000 employees and a $400 million annual budget. Like agencies of comparable size and responsibility, the GAO should have an independent officer to monitor its activities and improve the efficiency and effectiveness of its programs. The creation of an inspector general will address concern that the GAO suffers from a lack of accountability. If any agency can appreciate the need for and benefits of independent oversight, it should certainly be the General Accounting Office.

Mr. President, in addition to creating an Office of the Inspector General, the legislation seeks to institute a number of changes in GAO's operating procedures to enhance fairness, professionalism and nonpartisanship.

First, the bill calls on the Comptroller General to notify promptly the ranking member when the GAO receives a work request from the chairman of a congressional committee, and conversely, to notify the chairman when a request is received from the ranking member. Furthermore, it would require notification in the CONGRESSIONAL RECORD when the GAO approves any work request. These measures are intended to improve communication between the GAO and Congress on a nonpartisan basis and to address concern that the GAO can be used for partisan sneak attacks.

Second, the bill would codify a GAO policy that work requests from ranking members be given a priority and status equal to requests from committee chairmen. As objective investigator and finder of fact, the GAO should be statutorily required to treat requests equally, whether they come from Democratic or Republican leadership.

Third, the bill would require the GAO to provide affected agencies with an opportunity to comment on GAO's findings and to include relevant comments in its investigative reports.

Current GAO policy suggests that auditors should seek and include relevant agency comments. Notwithstanding this policy, only about two-thirds of GAO's reports include such written input. In addition, under current rules, Members of Congress can request the GAO to forego contacting the agency. In the interest of fairness and accuracy, agency input should be requisite.

Fourth, the bill seeks to require GAO to reference its sources of factual information and to list all organizations contacted in the conduct of its investigations and studies.

Mr. President, conclusions are only as good as the information they are based upon. By requiring the GAO to list the organizations it contacts, and footnote the source of its facts, Congress and the public can be reassured that reports are thoroughly and fairly researched.

Fifth, the bill will prohibit the release of any report until GAO's internal quality control procedures have been complied with. The release of reports which have not been finalized and may contain inaccuracies does not serve the informational needs of Congress nor the public interest. The premature release of unconfirmed reports should not be permitted.

Mr. President, in addition, to these specific statutory changes, I believe we can and should make other improvements in GAO's quality control programs and other activities. The legislation seeks to establish a special GAO peer review committee to help craft appropriate and responsible measures. The bill vests the panel with 10 specific directives.

Directive 1, the committee will establish a formal GAO product review process. This process will enable agencies and affected parties to appeal to the GAO to correct factual errors, and to reconsider findings which are substantially influenced by information that is either erroneous or not previously considered.

The GAO does not currently have a formal and accessible problem resolution procedure and it should. I emphasize that such procedures should be available to non-Government as well as Government petitioners. Many Nongovernment organizations are directly affected by GAO activities. They should have an opportunity to set the record straight if and when necessary.

Directive 2, the panel will establish procedures to notify Congress, the public, and the media when corrective actions or retractions are made.

Because GAO reports have such enormous influence and are quoted widely in the media, Congress and the public should be notified when corrections or retractions are made.

Directive 3, the committee will establish guidelines to eliminate inappropriate advocacy of policy or the expression of unsubstantiated conclusions within GAO reports and testimony.

Factfinding is the GAO's primary role. There are, however, times when Congress asks the GAO to make qualitative judgments which can place the Office on one side or another of contentious political issues.

The GAO must walk a fine line in the effort to respond to Congress without exceeding its scope or level of expertise. All of us would agree that the GAO should not cross the line between program analysis and political advocacy. Perhaps part of the problem is that we need a clearer idea of exactly where that line is drawn.

The peer review committee can help illuminate this gray area and set guidelines so that GAO's credibility and independence is not tainted by the appearance of politics or caprice.

Directive 4, the committee will review existing quality control procedures, standards, and guidelines, and recommend improvements to ensure that GAO work product is fair, factual, unbiased, and professional.

One idea the committee should consider is a policy that would enable congressional requesters to remain anonymous to the GAO personnel who are conducting the audit or investigation. Implementing such a process would address widespread concern that the GAO tailors findings to meet the needs of the member who requested the report.

Directive 5, the panel will establish a policy to eliminate duplicative or superfluous auditing and investigative activities.

I understand that one Department of the Interior program was audited 12 times in 1 year. At some point, the auditing process itself may become wasteful and burdensome. GAO should have clear guidelines and standards to eliminate work that is duplicative, superfluous, or wasteful, even if that means refusing the work request of a Member of Congress.

Directive 6, the committee will report to Congress on the number of man-hours expended and the cost incurred by respondents to GAO audits.

Again, GAO's mission is to help root out fraud, waste, and abuse. It's important that we understand the total cost of conducting this work, to be sure the audit and investigative process itself is not wasteful.

Directive 7, the bill calls on the committee to report to the Comptroller General and the Congress its recommendations to improve professionalism, impartiality and excellence within the GAO and among its employees.

Under this directive, the committee should review hiring practices, employee training and morale, the work environment, and other administrative issues to determine what measures can be taken to better the organizations and further the purposes for which the GAO was created.

Directive 9, the panel will report to the Comptroller General and the Congress on the steps taken to achieve the goals and purposes of this legislation.

Finally, Mr. President, the bill calls on the Comptroller General to implement the recommendations of the peer review committee to the greatest extent practicable. Should the Comptroller General decide not to implement a committee recommendation, he or she will be required to notify the congressional leadership, in writing, stating the specific reasons why.

We want to ensure that we actually improve the GAO, not just create another committee with lofty goals, high principles, and absolutely no impact on the status quo.

Is the status quo at the GAO that bad, Mr. President? Are these measures really necessary? I believe that in many areas the GAO does an excellent job. The office is a powerful oversight tool which has helped uncover and eliminate many problems and deficiencies in the administration of Government programs. Most GAO employees are well trained, highly motivated, and honorable public servants and the Comptroller General should be congratulated on his many successes and on his commitment to address problems, real and perceived, at the GAO.

Nevertheless, over the past several years the GAO has been the subject of disturbing criticism. There have been charges of partisanship, bias, and the production of unprofessional work. Most disturbing is the perception that the GAO has become arbitrary and ineffective, and suffers from insufficient oversight of its own.

In a recent survey conducted by GAO, congressional customers of the

Office expressed concern that the GAO is subservient to major requesters and that the Office is jeopardizing its credibility as an analytical fact-finding unit by advocacy.

They felt that there has been a decline in knowledge of agency programs, a lack of expertise commensurate with technical nature of issues and a lack of understanding of the legislative process.

Mr. President, the GAO is only as effective as its reputation for objectivity, fairness, and accuracy. It cannot possibly fulfill its mission without maintaining the highest degree of trust and credibility in its work product.

The criticism voiced in the congressional survey and complaints about the GAO aired in the media indicate an erosion of trust and credibility that should concern each of us. It cries out for action.

Perhaps some of the criticism leveled at the GAO can be written off as "kill the messenger" syndrome. But, not all of the criticism can be so easily dismissed.

Senator BOND uncovered questionable research practices involving a GAO report on the management of the Missouri River. The GAO used a biased report prepared by one of the affected parties as the factual basis for its analysis. GAO drew conclusions without checking the facts, or, at least indicating the source of their information. Such unprofessional work is disconcerting to say the least.

In addition, there have been instances where the GAO has crossed the line from policy into politics. A 1988 transition report issued by the GAO stated: "Additional revenues are probably an unavoidable part of any realistic strategy for reducing the deficit."

Mr. President, the fact is we have been raising taxes for years in the name of deficit reduction. Yet, the deficit grows. Interestingly, I saw no statement in the report that "spending constraints are an unavoidable part of any realistic strategy to reduce the deficit." This is a conclusion that even those refined in the art of tax and spend have come to realize. Yet, this part of the equation is conspicuously absent from the counsel of our fact-finders.

I might also mention, Mr. President, over the past several years the GAO has issued reports, several in the natural resources area, that have come under serious fire. There were allegations that the GAO had the facts wrong, was out of touch, and did not understand the issues or the applicable laws. I am not here to pass judgment on the allegations, but, at the very least, these controversies point out the need for a problem resolution procedure to settle questions of fact and to address complaints. This legislation will create such a process.

I find it curious that in the past 12 years, not one GAO report has been retracted. It is hard to believe that an agency which produces over 1,000 reports per year never gets it wrong. To err is human. Not to admit error, particularly in accounting and investigative work, is dangerous. Not to have a process by which errors can be corrected after the fact is inexcusable. Let's correct that.

Our forefathers knew that no mortal man, nor any institution of his making is infallible. This is why they established the system of checks and balances which has served our Nation so well.

It is time for checks and balances at the GAO. The creation of an independent Inspector General and improved quality control procedures at the GAO will ensure that Congress and the American people have a watchdog that meets the highest standards of integrity and excellence. We deserve that much and can afford no less.

The GAO is too important to Congress and the effective oversight of the executive branch to allow its services to decline or its reputation to be tainted. I hope that the introduction of the GAO Oversight and Reform Act of 1993 will call attention to these issues and spur productive debate as we pursue a comprehensive solution.

I ask unanimous consent that the text of the bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1737

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "General Accounting Office Oversight and Improvement Act of 1993".

## TITLE I—INSPECTOR GENERAL OF THE GENERAL ACCOUNTING OFFICE

**SEC. 101. ESTABLISHMENT OF INSPECTOR GENERAL.**

(a) IN GENERAL.—Chapter 7 of title 31, United States Code, is amended—

(1) by redesignating section 704 as section 705; and

(2) by inserting after section 703 the following new section:

**"§ 704. Inspector General**

"(a) There is established the Office of Inspector General within the General Accounting Office.

"(b) The Inspector General shall be appointed and perform his duties in accordance with the provisions of section 8F of the Inspector General Act of 1978.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 31, United States Code, is amended by striking out the item relating to section 704 and inserting in lieu thereof the following:

"704. Inspector General.

"705. Relationship to other laws.".

**SEC. 102. SPECIAL PROVISIONS CONCERNING THE GENERAL ACCOUNTING OFFICE.**

The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating sections 8E and 8F as sections 8F and 8G, respectively;

(2) in section 8G (as redesignated by paragraph (1) of this section)—

(A) by striking out "8C, or 8D" and inserting in lieu thereof "8C, 8D, or 8E"; and

(B) by striking out "section 8E(a)" and inserting in lieu thereof "section 8F(a)";

(3) by inserting after section 8D the following new section:

"SPECIAL PROVISIONS CONCERNING THE GENERAL ACCOUNTING OFFICE

"SEC. 8E. (a)(1) For purposes of this section the term 'Inspector General' means the Inspector General of the Office of the Inspector General for the General Accounting Office established under section 704 of title 31, United States Code.

"(2) To the extent provided under section 705 of title 31, United States Code—

"(A) the General Accounting Office shall be an establishment under this Act; and

"(B) the Comptroller General of the United States shall be the head of such establishment under this Act.

"(b)(1) Notwithstanding section 3 of this Act, the Inspector General—

"(A) shall be appointed jointly by—

"(i) the Majority Leader and Minority Leader of the Senate; and

"(ii) the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

"(B) may only be removed from office by a joint resolution of Congress, after notice and an opportunity for a hearing, only for—

"(i) permanent disability;

"(ii) inefficiency;

"(iii) neglect of duty;

"(iv) malfeasance; or

"(v) a felony or conduct involving moral turpitude.

"(2) An Inspector General removed from office under paragraph (1)(B) may not be reappointed to the office."; and

(4) in section 11—

(A) in paragraph (1) by inserting ", and the Comptroller General of the United States" before "; as the case may be;" and

(B) in paragraph (2) by inserting ", and the General Accounting Office" before "; as the case may be".

**SEC. 103. COMPENSATION.**

Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Inspector General, General Accounting Office.".

**SEC. 104. REORGANIZATION WITHIN THE GENERAL ACCOUNTING OFFICE.**

The Comptroller General may reorganize, consolidate, or terminate the Office of Special Investigations and transfer or terminate any function of such Office consistent with the provisions and amendments made by this title to—

(1) eliminate the performance of any function by the Office of Special Counsel, which shall be performed by the Inspector General of the General Accounting Office after the date of the enactment of this Act; and

(2) provide for greater efficiency by the General Accounting Office.

## TITLE II—GENERAL ACCOUNTING OFFICE FINAL REPORTS AND CONGRESSIONAL REQUESTS FOR REPORTS

**SEC. 201. FINAL REPORTS AND CONGRESSIONAL REQUESTS FOR REPORTS.**

(a) IN GENERAL.—Chapter 7 of title 31, United States Code, is amended by inserting after section 720 the following new sections:

**"§ 721. Final reports**

"(a) For purposes of this section, the term 'agency' means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government

corporation) or the District of Columbia government.

"(b)(1) In addition to actions taken under section 718(b)(1), the Comptroller General shall provide an agency that is relevant to a report, an opportunity to review any finding of the General Accounting Office in such report before such report is final and released.

"(2) After providing the review made available under paragraph (1), the Comptroller General shall include a summary of the agency response as a part of the final report.

"(c) To the greatest extent practicable consistent with applicable law, the Comptroller General shall include a list of all organizational contacts and sources of information used in each final report.

"(d) If a Member of Congress requests the Comptroller General to withhold the release of a final report to any person, the Comptroller General may release such report no earlier than 7 days after the date on which such request is received.

"(e) A final report may not be released, unless the Comptroller General makes a written determination included in such report that the General Accounting Office has complied with all internal quality control procedures.

**"§ 722. Congressional requests for reports**

"(a) No later than 3 days after receiving a request for a report—

"(1) from the chairman of a committee of the Congress, the Comptroller General shall notify the ranking member of such committee that such request was received; and

"(2) from the ranking minority member of a committee of the Congress, the Comptroller General shall notify the chairman of such committee that such request was received.

"(b)(1) No later than 3 days after approving a request to prepare a report for a Member of the Congress the Comptroller General shall—

"(A) notify the Majority Leader and the Minority Leader of the Senate of such approval if the requester is a Senator; and

"(B) notify the Speaker of the House of Representatives and the Minority Leader of the House of Representatives of such approval if the requester is a Member of the House of Representatives.

"(2) The Comptroller General shall provide appropriate notification for publication in the Congressional Record of all approvals of requests from Members of Congress to prepare reports. All such approvals shall be published in the Congressional Record.

"(c) The Comptroller General shall treat all requests from chairmen and ranking members of committees of the Congress on an equal basis.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 5, United States Code, is amended by inserting after the item relating to section 720 the following:

"721. Final reports.
"722. Congressional requests for reports.".

**TITLE III—GENERAL ACCOUNTING OFFICE PEER REVIEW COMMITTEE**

**SEC. 301. ESTABLISHMENT OF GENERAL ACCOUNTING OFFICE PEER REVIEW COMMITTEE.**

There is established the General Accounting Office Peer Review Committee (hereafter in this title referred to as the "Committee").

**SEC. 302. MEMBERSHIP.**

(a) APPOINTMENT.—(1) The members of the Committee shall be appointed by the Comptroller General of the United States from a list of individuals jointly nominated by the Majority Leader and the Minority Leader of the Senate, and a list of individuals jointly nominated by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives.

(2) The Comptroller General shall designate one of the members appointed under paragraph (1) to serve as Chairman of the Committee.

(3) The Comptroller General shall appoint an appropriate individual to fill any vacancy which may occur on the Committee.

(b) MEMBERS.—The Committee shall be composed of no more than 15 members of whom—

(1) 2 members shall be Senators, who shall not be members of the same political party;

(2) 2 members shall be Members of the House of Representatives who shall not be members of the same political party;

(3) 2 members shall be Inspectors General of executive agencies;

(4) 2 members shall be individuals who are not Federal officers or employees; and

(5) 7 members shall have experience or expertise in Federal administrative policymaking, procedure, and processes.

(c) EX OFFICIO MEMBER.—The Comptroller General shall serve as a nonvoting ex officio member of the Committee.

(d) COMPENSATION.—(1) No member of the Committee who is a Federal officer or employee shall receive compensation for service to the Committee.

(2) Notwithstanding section 1342 of title 31, United States Code, no member of the Committee who is not a Federal officer or employee shall receive compensation for service to the Committee.

(e) TRAVEL EXPENSES.—The members of the Committee who are not Federal officers and employees shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

**SEC. 303. FUNCTIONS OF THE COMMITTEE.**

The Committee shall—

(1) recommend a formal process and standards for review under which agencies, and affected parties may appeal to the General Accounting Office to correct factual errors, and to reconsider findings contained in General Accounting Office studies, audits, investigations, and reports which are based on or substantially influenced by erroneous information, or previously unconsidered information;

(2) recommend procedures to notify the Congress, the public, and the media of modifications or retractions to studies, audits, investigations, and reports following a review described under paragraph (1);

(3) review policies and guidelines, and recommend improvements to eliminate inappropriate advocacy of policy or the expression of unsubstantiated conclusions within General Accounting Office reports and testimony;

(4) recommend improvements to ensure that General Accounting Office work product is fair, factual, unbiased, professional and consistent with the purposes for which the General Accounting Office was established;

(5) review the General Accounting Office's internal quality control procedures, including—

(A) Government Auditing Standards;

(B) the General Accounting Office's Communications Manual;

(C) the General Accounting Office Policy Procedures Manual; and

(D) the Post-Assignment Quality Review System;

(6) recommend procedures for making the requester of any service by the General Accounting Office to remain anonymous to the General Accounting Office team members conducting and overseeing the relevant investigation and reporting activities;

(7) review the General Accounting Office's policies and procedures, and make recommendations to eliminate duplicative or superfluous auditing and investigative activities;

(8)(A) provide an estimate to the Congress on the number of annual man-hours and costs incurred by respondents to General Accounting Office audits; and

(B) recommend policies, guidelines or procedures to reduce compliance costs without adversely affecting the necessary activities of General Accounting Office auditors or the quality of work product; and

(9) make recommendations to the Comptroller General and the Congress on measures to—

(A) improve professionalism, impartiality, independence, and excellence within the General Accounting Office;

(B) improve hiring practices, employee training and morale, administrative structure and policies; and

(C) further the purposes for which the General Accounting Office was established.

**SEC. 304. IMPLEMENTATION OF RECOMMENDATIONS.**

(a) IN GENERAL.—To the greatest extent practicable consistent with applicable law, the Comptroller General shall implement the recommendations of the Committee (including the establishment or modification of procedures, guidelines, and standards).

(b) NOTIFICATION TO THE CONGRESS.—(1) Upon the termination of the Committee the Comptroller shall submit to Congress a report on the recommentions made pursuant to this Act.

(2) No later than 90 days after the date of the termination of the Committee, the Comptroller General shall notify the Majority Leader and the Minority Leader of the Senate, and the Speaker of the House of Representatives and the Minority Leader of the House of Representatives of any Committee recommendation that the Comptroller General is unable to implement and the specific reason for such inability.

**SEC. 305. SUPPORT SERVICES.**

The General Accounting Office shall provide administrative and support services for the Committee.

**SEC. 306. FEDERAL ADVISORY COMMITTEE ACT.**

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

**SEC. 307. TERMINATION OF COMMITTEE.**

The Committee shall terminate 1 year after the date of the enactment of this Act.●

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By Mr. RIEGLE:

S. 1738. A bill to amend the Social Security Act to extend for 3 years the provision for compensation of qualified organizations serving as representative payees, and for other purposes; to the Committee on Finance.

REPRESENTATIVE PAYEE AMENDMENTS OF 1993

Mr. RIEGLE. Mr. President, today I introduce legislation reauthorizing the representative payee program which allows certain nonprofit organizations to act as fiduciaries for Social Security beneficiaries who are unable to manage their own finances due to youth, mental or physical impairments.

The Social Security Administration has had difficulty locating qualified groups or individuals to act as representative payees on behalf of beneficiaries who are unable to manage their finances. According to a GAO report, 8,500 adult beneficiaries had their benefits suspended because no qualified representative payee could be found to manage the beneficiaries finances.

In response to the shortage of qualifed representative payees, Congress, in the Omnibus Budget Reconciliation Act of 1990, strengthened the Social Security Administration's representative payee program by allowing nonprofit groups to collect a fee for providing financial assistance to Social Security beneficiaries who were incapable of managing their own finances. These nonprofit groups must be approved by the Social Security Administration and have been in existence before October 1, 1988. The representative payees receive benefits directly from the Social Security Administration and can only use the funds to meet the needs of the beneficiary. This program expires on July 1, 1994.

The program has had some success in expanding the number of groups who will act as representative payees for Social Security beneficiaries but more time is needed to increase participation. As a result I believe this program deserves to be extended. The legislation I introduce today would extend the program until July 1, 1997.

The legislation would also make an important modification to expand the number of potential representative payee organizations by allowing nonprofit groups created after October 1, 1988, to participate in the program. According to a GAO report which surveyed advocates, local Social Security offices and representative payee organizations, one the most common suggestions to improve the program was to allow groups established after October 1, 1988 to participate. Due to the fact that some still have a concern that a few organizations may attempt to profit from the $25 fee, this legislation requires a nonprofit organization to be in existence for at least 1 year. This important modification will improve the effectiveness of the program.

I thank the Chair and ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1738

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Representative Payee Amendments of 1993".

**SEC. 2. COMPENSATION FOR QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.**

(a) TITLE II.—

(1) EXTENSION.—Section 205(j)(4)(D)) is amended by striking "July 1, 1994" and inserting "July 1, 1997".

(2) ELIGIBILITY OF ORGANIZATIONS.—Section 205(j)(4)(B)(iii) of such Act (42 U.S.C. 405(j)(4)(B)) is amended by striking "on October 1, 1988" and inserting "at least 1 year before the commencement of services as a representative payee of any such individual".

(b) TITLE XVI.—

(1) EXTENSION.—Section 1631(a)(2)(D)(iv) of the Social Security Act (42 U.S.C. 1383(a)(2)(D)(iv)) is amended by striking "July 1, 1994" and inserting "July 1, 1997".

(2) ELIGIBILITY OF ORGANIZATION.—Section 1631(a)(2)(D)(ii)(II)(cc) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)(II)) is amended by striking "on October 1, 1988" and inserting "at least 1 year before the commencement of services as a representative payee of any such individual".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsections (a)(1) and (b)(1) shall take effect on July 1, 1994.

(2) ELIGIBILITY OF ORGANIZATIONS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect on the date of the enactment of this Act, and shall only apply with respect to—

(A) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(B) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

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By Mr. MCCAIN:

S. 1741. A bill to provide for the establishment of business accounts for air travel by Federal employees to maximize costs savings, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENT TRAVEL SAVINGS ACT OF 1993

• Mr. MCCAIN. Mr. President, today, I'm pleased to introduce the Government Travel Cost Savings Act of 1993.

The General Services Administration reports that last year, the Federal Government spent an astounding $1.8 billion dollars for commercial air travel by Federal employees. This is a shockingly large outlay of taxpayers dollars.

We have an obligation to examine official air travel by Federal employees very carefully to ensure that such travel is for necessary purposes and that legitimate travel is being conducted as cost-efficiently as possible.

The legislation I'm introducing today is a first step in the effort to lower the Federal Government's air travel bills. It will do so by seeing that the government fully benefits from the frequent flyer award plans offered by the airline industry.

The Federal Government's contracts with the airlines permit Federal participation in frequent flyer programs, but we have no policy requiring that we take full advantage of the opportunity. As a result, taxpayers are losing millions of dollars per year by paying for tickets that could otherwise be obtained free if the Federal Government would fully participate in mileage award and bonus programs.

The Government Travel Cost Savings Act of 1993 will remedy this problem by requiring Federal personnel managers, including the Congress, to establish frequent flyer accounts with an appropriate carrier or carriers for employees who travel by air on official business. The bill stipulates that awards generated from these business accounts can be used solely for official business purposes.

I have asked the Congressional Budget Office to estimate how much enactment of this bill would save in Federal travel costs. I look forward to their report which will take several weeks to prepare. Based on preliminary calculations, however, I believe that full participation in mileage award plans could create significant savings.

I want to point out that the business frequent flyer accounts required by the legislation would be separate from any accounts the Federal employee may maintain with the airlines for personal travel. This is a matter of fairness to the taxpayer and the federal employee.

Under existing rules, if a Federal employee has a personal account and earns a travel award with mileage accumulated even in part by official travel miles, the award, usually a free ticket, is technically the property of the Government. This means that the employee loses credit for any mileage paid for at personal expense.

The fact of the matter is that few employees are claiming official travel miles and they are going to waste. Clearly, the status quo is not fair either to the taxpayer or to the Federal employee.

Establishing business frequent flyer accounts for Federal employees who travel will ensure that the Government receives credit for taxpayer funded travel, while protecting the rights and property of Federal employees. This is a step we should have taken a long time ago and I hope we can enact it without delay.

In addition, Mr. President, the Government Travel Savings Act calls on the General Services Administration to negotiate with the airline industry to allow each government unit with a travel budget to establish its own group frequent flyer account. Such group accounts would enable offices to pool the business miles of their employees and take advantage of the economies of scale.

The bill authorizes the Administrator of the GSA to establish the offering of a group frequent flyer account as a condition of the Federal Government's transportation service contracts with the airlines, if the Administrator believes it will result in savings to the government.

Mr. President, the Federal debt worsens. I worry that we have become modern day Nero's fiddling while Rome is aflame. We must be increasingly creative and disciplined if we are to stem

the rising tide of red ink that is fueling the fire.

The Government Travel Savings Act of 1993 is a modest but I believe appropriate measure which will save money. I look forward to receiving input on the bill so that we can have a productive examination of the relevant issues, and the exact level of savings we can anticipate.

In addition, I intend to look more closely at the general issue of government travel because I cannot believe that with the many cost-effective communications alternatives available today, spending $1.8 billion a year on air travel is fully justified.

I also believe we should examine the Federal Government's air transportation service contracting program which grants a virtual lock on Federal business to certain carriers serving specific routes in exchange for a guaranteed level of Federal business at a guaranteed Federal rate. Are such customer volume guarantees artificially stimulating travel that may not be necessary? Is the contract system meeting our needs for maximum cost-efficiency? What is the impact of Federal contracts on competition and pricing in the airline industry? These are all legitimate and important questions that merit careful evaluation.

I intend to request the chairman and ranking member of the Government Affairs Committee for an oversight hearing on Federal air travel and the Government Travel Cost Savings Act in the near future so that we can have a full and public examination of the relevant issues and move forward with prudent reforms that are in the public interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1741

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Government Air Travel Savings Act of 1993".

**SEC. 2. BUSINESS ACCOUNTS FOR AIR TRAVEL BY FEDERAL EMPLOYEES.**

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5709 the following new section:

**"§ 5710. Business accounts for air travel**

"(a) The General Services Administration or any agency entering into a contract with an air carrier for travel on official business—

"(1) subject to the provisions of paragraph (2), shall include as a term of such contract that such air carrier shall—

"(A) establish a separate air travel business account for any employee, designated by the head of the agency employing such employee, for travel on official business by such employee on such air carrier;

"(B) deposit any award or bonus by such air carrier awarded to such employee for travel on official business into the employee's air travel business account; and

"(C) apply any such award or bonus from such employee's air travel business account to any travel on official business by such employee on such air carrier except that such awards or bonuses shall not be used for seating upgrades; and

"(2) may include as a term of such contract, as an alternative to the term required under paragraph (1), that such air carrier shall—

"(A) establish an air travel business account for any office or administrative unit of an agency, as designated by the head of such agency, for travel on official business by employees of such office or administrative unit on such air carrier;

"(B) deposit any award or bonus by such air carrier awarded to any employee of such office or administrative unit for travel on official business into the air travel business account of such office or administrative unit; and

"(C) apply any such award or bonus from the air travel business account of such office or administrative unit to any travel on official business by any employee of such office or administrative unit except that such awards or bonuses shall not be used for seating upgrades.

"(b) All air travel business accounts established under this section shall be separate from any personal account of an employee. Any award or bonus from an air travel business account may be used only for travel on official business except that such awards shall not be used for seating upgrades.

"(c) To the greatest extent practicable, the General Services Administration shall include the term described under subsection (a)(2) in a contract to maximize travel costs savings.

"(d) The General Services Administration shall promulgate regulations to carry out the provisions of this section. Such regulations shall include a requirement that, to the greatest extent practicable to maximize travel costs savings, employees shall—

"(1) travel on official business with air carriers awarding awards and bonuses for official business travel, regardless of whether such travel is on an air carrier under a contract described under this section; and

"(2)(A) participate in any program of such air carrier awarding awards and bonuses; and

"(B) use such awards and bonuses for only official business travel except that such awards shall not be used for seating upgrades.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5709 the following new item:

"5710. Business accounts for air travel.".

**SEC. 3. APPLICATION TO THE CONGRESS.**

(a) IN GENERAL.—No later than 180 days after the date of the enactment of this Act, the Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives shall promulgate regulations relating to Members of Congress and any employee whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, respectively, that—

(1) require any Member of the Senate, officer of the Senate, Member of the House of Representatives, or officer of the House of Representatives who enters into a contract with an air carrier for travel on official business by a Member or employee—

(A) subject to the provisions of subparagraph (B), shall include as a term of such contract that such air carrier shall—

(i) establish a separate air travel business account for any Member or employee, designated by the applicable Member or employing committee or office of such employee, for travel on official business by such Member or employee on such air carrier;

(ii) deposit any award or bonus by such air carrier awarded to such Member or employee for travel on official business into the Member's or employee's air travel business account; and

(iii) apply any such award or bonus from such Member's or employee's air travel business account to any travel on official business by such Member or employee on such air carrier except that such awards or bonuses shall not be used for seating upgrades; and

(B) may include as a term of such contract, as an alternative to the term required under subparagraph (A), that such air carrier shall—

(i) establish an air travel business account for any committee or office as designated by the applicable Member, committee, or office, for travel on official business by Members or employees of such committee or office on such air carrier;

(ii) deposit any award or bonus by such air carrier awarded to any Member or employee of such committee or office for travel on official business into the air travel business account of such committee or office; and

(iii) apply any such award or bonus from the air travel business account of such committee or office to any travel on official business by any Member or employee of such committee or office except that such awards or bonuses shall not be used for seating upgrades; and

(2) to the greatest extent practicable to maximize travel costs savings, require committees and offices (including Members' offices)—

(A) to enter into contracts with air carriers awarding awards and bonuses for official business travel; and

(B) to require Members and employees to—

(i) travel on official business with air carriers awarding awards and bonuses for official business travel, regardless of whether such travel is on an air carrier under a contract described under this section; and

(ii)(I) participate in any program of such air carrier awarding awards and bonuses; and

(II) use such awards and bonuses for only official business travel except that such awards or bonuses shall not be used for seating upgrades.

(b) SEPARATE BUSINESS ACCOUNTS.—All air travel business accounts established under this section shall be separate from any personal account of a Member or employee. Any award or bonus from an air travel business account may be used only for travel on official business except that such awards or bonuses shall not be used for seating upgrades.

(c) COMMITTEE AND OFFICE ACCOUNTS.—To the greatest extent practicable, any Member of Congress or officer of the Congress entering into a contract as provided under this section shall include the term described under subsection (a)(1)(B) to maximize costs savings.●

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By Mr. ROCKEFELLER:

S. 1742. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes; to the Committee

on Commerce, Science, and Transportation.

NASA AUTHORIZATION ACT, FISCAL YEAR 1994

• Mr. ROCKEFELLER. Mr. President, it is my pleasure as chairman of the Subcommittee on Science, Technology and Space to introduce the National Aeronautics and Space Administration [NASA] Authorization Act for fiscal year 1994. Although the fiscal year began last month, NASA still faces many months, maybe years, of restructuring its major programs and its internal organization in response to changing national priorities an expectation of real budget constraints. This bill provides direction to NASA for these changes during fiscal year 1994. More importantly it will serve as a marker and a guide for the fiscal year 1995 [NASA] Authorization Act that I plan to introduce just after the President submits to the Senate his budget proposals for fiscal year 1995.

Even before I bring the 1995 authorization bill to this Chamber, I plan to introduce a companion bill to provide policy direction to NASA's important and evolving technology development programs. In the NASA technology bill, I want to increase the emphasis NASA places on making a meaningfully contribution to the competitiveness of U.S. firms in world markets. My subcommittee examined the role of Federal research programs in support of American industry at several of its hearings this year, both those hearings devoted to NASA and those with a broader focus. I regret to say that NASA's record for technology transfer and technology commercialization, albeit glittering with some outstanding successes, is overall not all that it could have been.

For more than three decades, NASA's space projects were developed with little regard to the usefulness of the technology outside its designed mission. NASA's approach to technology transfer focused on "spinoffs", the secondary application of NASA-developed space technology. Since NASA championed specialized technologies for its own use, companies were often unable to apply or even adopt the technologies for commercial use. Increasingly, this spinoff approach to transferring Federal technology is criticized as serendipitous and unfocused.

In responding to competitiveness issues, NASA is establishing new programs but it is not yet clear that NASA is moving in right direction. For example, it has designed programs to "push" technologies to the private sector. With this approach, NASA is identifying and funding technologies that its scientists feel may have commercial potential, rather than working closely with industry to investigate technologies that industry thinks could be commercially important while also scientifically important to NASA. Before NASA proceeds too far with structuring new technology promotion programs, I believe the Congress will want to determine whether funding levels are commensurate with the benefits to industry, as well as to science, and how other NASA resources can be used more productively to enhance U.S. competitiveness.

Mr. President, this detailed examination of NASA's technology programs will be only a part of the scrutiny that our space program requires. Increased international economic competition and constrained Federal budgets have also raised concerns of whether NASA's overall budget accurately embraces our national priorities today or merely reflects a historical accumulation of projects, some of which may be only marginally relevant to these priorities. In addition, chronic cost overruns on contracts, schedule delays in projects, and spacecraft failures have tarnished NASA's "can do" reputation and, instead, send a signal to the American public that NASA has serious international management and performance problems.

To examine these issues and the role of NASA in a post-Cold War Era, my subcommittee held four hearings this year totally devoted to NASA and several other hearings on science and technology issues that are also relevant to NASA. From these hearings and other studies, there is now no doubt in my mind that NASA maintains too many projects for the amount of funding it receives. Many of these projects were begun a decade ago when NASA assumed it would receive significant real growth in its budget each year. Today, Congress and the administration are trying to deal with the excess spending of those days and to reduce the Federal deficit.

The process of trimming NASA's funding expectations, and even some of its projects, has begun. As NASA Administrator Dan Goldin testified this week before the Science, Technology and Space Subcommittee, when he joined NASA less than two years ago the 5-year projection for NASA's budget was $106 billion, an average of more than $21 billion per year. A year later, in President Bush's last budget submission, NASA's 5-year spending projection was cut to $96 billion. This year, while asking for more money for NASA in fiscal year 1994 than Congress appropriated the previous year, President Clinton's first budget proposal reduced NASA's 5-year budget projection to $80 million. The initiatives of the Reinventing Government Program introduced this past summer cut another $2 billion and the administration is now telling NASA that next year's budget submission will reduce the 5-year projection even more, to $71.5 billion.

Our colleagues on the Senate and House appropriations committees recently notified NASA that it can expect less than that, perhaps about $70 billion over the next 5 years. Even if further cuts are not made, such an outlook will give NASA an average budget over the next 5 years of $14 billion, one-third less than the outlook only 20 months ago.

In an initial reaction to these projections of out-year budget reductions, NASA has stretched research and development projects, I suspect because of hopes of future funding increases. The elimination of some lower priority projects occurred only through Congressional initiation. Aside from those cuts, the stretch-out practice could be maintained, if NASA so chooses, under the fiscal year 1994 appropriations act and the authorizations levels in the bill I am introducing today. That archaic practice will have to be abolished in future budgets, beginning with the coming fiscal year. Instead, deft surgical cuts and termination of other projects are needed before they drain essential resources from programs with higher priorities.

The Congressionally-initiated cuts in NASA's FY 1994 appropriation, most importantly the cancellation of Advanced Solid Rocket Motor Program, are reflected in the bill that I am introducing today. This bill provides total of $14,696.5 million is provided to NASA for fiscal year 1994, an increase of over $387 million from the fiscal year 1993 appropriations act. The amount authorized for research and development is over $7.594 billion, or about 51.6 percent of the entire authorization. The size of this program points out the importance of the bill I will introduce in January to make NASA's technology programs more relevant to today's national priorities.

Of the amount authorized for R&D, 29 percent is directed to space sciences and the bill has included a special focus on life sciences collaboration with the National Institutes of Health. Just as NASA and the Department of Defense can both save money and operate more efficiently through shared projects, NASA and NIH can both benefit from working together on the health issues that are important to each agency.

As requested by the Clinton administration, the bill provides $1.946 billion for the redesigned space station, with a funding limitation of $2.1 billion for space station development and the related costs in fiscal year 1994. This year, I am able to support this funding for the space station because the Administration significantly reduced the program costs through an extensive redesign and it directed NASA to hold space station funding at a constant $2.1 billion for each of the next 4 years.

I was also heartened that the Administration seized a rate opportunity to broach negotiations with Russia this past summer to develop a concept for an international space station in concert with our European, Japanese, and Canadian partners. If our nation's

human space program is to survive, I believe we must engage the international community in cooperative activities like the space station. In support of the Administration's efforts, this bill provides $100 million through special reprogramming authority to fund cooperative space activities with Russia.

In undertaking this effort, however, we must ensure that an international space station enhanced by Russian participation does not become a space station dependent on Russian participation. The design being developed by NASA may be moving too far toward a Russia-dependent space station. For that reason, this authorization bill—like the appropriations act we approved a month ago—prevents NASA from spending the bulk of fiscal year 1994 funds available for the space station until it has reported to the Congress on the final configuration, schedule, and costs of its space station design. My subcommittee will examine this report very carefully and I am sure it will have a significant impact on our fiscal year 1995 authorization bill.

The importance of NASA's potential contribution to aeronautics is also emphasized in this bill. It provides over $1 billion in funding for aeronautics research and technology development. Of this amount, about 28 percent is directed to technology development projects that are designed specifically to enhance the competitiveness of the U.S. aircraft and engine manufacturers. NASA's long collaboration with U.S. aircraft manufacturers helped our country achieve leadership in aeronautics and contributed to a substantial trade surplus in this area. However, that leadership is now being challenged, not co-incidently I suspect, as NASA's aeronautics facilities deteriorate and its support to American industry declines. To begin to turn this situation around, the authorization bill provides $74 million for the study and design of urgently needed wind tunnel facilities in the United States. This investment is essential to maintaining our competitive position in aeronautics.

Mr. President, although I have perhaps dwelt in this statement more on the problems at NASA that we need to address than on the many successes that we take for granted, I do not want to leave the impression that NASA has more problems than successes. I feel NASA is a good agency, one has much to offer the Nation. Despite recent losses and failures of spacecraft, something that has to be expected from time to time, NASA has produced technological wonders in aeronautics and space. NASA has some problems, but I believe the agency can weather the changes in national priorities and demonstrate it is relevant to the American public today.

With sound direction from Congress, NASA's research and technology can make significant contributions to American science and American competitiveness. I am committed to working with NASA and the administration to help shepherd necessary changes within the agency to enhance these contributions. To facilitate that process, I will introduce a NASA authorization bill for FY 1995 soon after the President submits a NASA budget request, hopefully in January or February. I am initiating this effort in coordination with Representative GEORGE BROWN, the Chairman of the Science, Space, and Technology Committee in the other body, who has established a similar timetable. I look forward to working with my colleagues in the Senate to pass that bill by mid-year, well before the beginning of the next fiscal year.●

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By Mr. NICKLES (for himself, Mr. HATCH, Mr. MACK, Mr. BENNETT, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. DOLE, Mr. FAIRCLOTH, Mr. GREGG, Mr. HELMS, Mrs. HUTCHISON, Mr. KEMPTHORNE, Mr. LOTT, Mr. LUGAR, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. GRASSLEY):

S. 1743. A bill to provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans, and for other purposes; to the Committee on Finance.

CONSUMER CHOICE HEALTH SECURITY ACT

Mr. NICKLES. Mr. President, in the debate over health care reform, a fundamental choice has emerged: Who should drive health care reform? Should it be government? Or should it be consumers, empowered with more control over health care choices and costs?

President Clinton's proposal relies on more Federal control and regulation of a trillion-dollar industry that represents one-seventh of our economy and provides the highest quality health care in the world. His plan outlaws virtually all of the current health plans and substitutes a one-size-fits-all program which forces consumers into government controlled monopolies the President calls "health alliances." In classic Washington fashion, he overpromises and underfunds his program while denying individual choices concerning both benefits and costs of health care plans.

I have come to the Senate floor today to introduce, for myself and principle coauthors Senators HATCH and MACK, health care legislation that eschews the big government solutions of the President.

Along with Senators HATCH and MACK, this legislation is sponsored by Senators DOLE, SIMPSON, COCHRAN, LOTT, STEVENS, BURNS, THURMOND, BENNETT, BROWN, COATS, COVERDELL, CRAIG, FAIRCLOTH, GREGG, HELMS, HUTCHISON, KEMPTHORNE, LUGAR, MURKOWSKI, SMITH, WALLOP, and GRASSLEY.

The Consumer Choice Health Security Act of 1993 achieves the goals of the Clinton plan and other so-called managed competition plans with one major difference: The Consumer Choice alternative gives families and individual Americans, not government bureaucrats, control over their health insurance. Much like choices found under the 33-year-old Federal Employee Health Benefits Program, our plan will offer individuals the opportunity to select the health plan of their choice with different benefits and prices.

Here's how it would work: The tax exclusion for company-sponsored health plans would be replaced with individual tax credits. Companies would take the money they spend to subsidize their employee's health insurance and give it to the employee in the form of wages. Then, a tax credit would be given to individuals. The combination of higher wages plus the tax credit will provide them the resources to purchase health insurance they want—the choice is theirs.

While individual tax credits would replace the current tax exclusion for company-sponsored health programs, the Consumer Choice plan would preserve employer-provided coverage; however, it would be the employee's decision to determine whether to remain on the company plan, or choose something different.

People whose medical expenses consume a greater share of their income would receive a larger credit. Because the tax credit is refundable, the poor and unemployed will get significant assistance from the government to purchase insurance.

Everyone will be required to carry at least catastrophic health insurance for their protection and to stop cost shifting. No one can be turned down because of preexisting illness, terminated because of an illness, and everyone will be able to take their health care policy with them from one job to another. Consumers could also choose to establish a tax-free medical saving account, using the funds they save to pay for additional health benefits or to save for long-term health care needs.

The Consumer Choice Plan, which is 202 pages long, compared to President Clinton's 1,342 page bill, is simple in its approach yet goes much farther than the Clinton plan to reform what is broken in the current system. For example, to tackle runaway medical malpractice costs, the Consumer Choice Plan will save billions of dollars by capping punitive damage awards, and limiting attorney fees. Like most other credible plans, our plan takes steps toward cutting red tape and government waste by streamlining health insurance claims and easing regulatory burdens on providers.

But just as important as what the plan will do, is what the plan won't do, especially compared to the Clinton Government-is-the-answer health plan. Because it contains no onerous mandates that force employers to cough up additional dollars to provide health insurance, as the Clinton plan does, it won't cost jobs. It won't add to the total cost of health care, nor to the federal deficit. Furthermore, unlike most other major health care proposals, the Consumer Choice Plan's costs have been estimated to be revenue neutral by an independent econometrics firm, Lewin-VHI.

This comprehensive health care bill keeps government's hands off health care, except to police insurance plans to protect consumers and guarantee access. Unlike the Clinton plan, it won't ration or reduce the quality of health care through price controls in the form of premium caps, or global budgeting which limits how much can be spent on health care.

The Consumer Choice Health Security Act bill will protect what's right about the current system—quality, choice of doctors—and knock down the barriers that deny any American access to affordable health care.

Health care reform is indeed a complex issue. The Consumer Choice Plan seeks a straightforward solution for providing choice and care. It is wrong to think, however, that the problems we face in health care require the kind of invasive big-government surgery proposed by the Clinton administration.

The cure could be provided by a simple dose of choice and competition.

I ask unanimous consent that a factsheet on the Consumer Choice Health Security Act and the bill itself be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1743

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Consumer Choice Health Security Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:


Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

Sec. 101. Refundable health care expenses tax credit.
Sec. 102. Medical savings accounts.
Sec. 103. Other tax provisions.

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

Sec. 111. Federally qualified health insurance plan.
Sec. 112. Family security benefits package.
Sec. 113. Rating practices.
Sec. 114. Guaranteed issue.
Sec. 115. Guaranteed renewability.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

Sec. 117. Establishment of regulatory program for certification of plans.
Sec. 118. Standards for regulatory programs.

Subtitle C—Employer Provisions

Sec. 121. General provisions relating to employers.
Sec. 122. Conversion of non-self-insured plans.
Sec. 123. Provisions relating to existing self-insured plans.
Sec. 124. Continuation of employer-provided health coverage required until effective date of new coverage under this Act.
Sec. 125. Requirements with respect to cashing out employer-sponsored plans.
Sec. 126. Enforcement.

Subtitle D—State Plan Requirements

Sec. 131. State plan requirements.

Subtitle E—Federal Preemption

Sec. 141. Federal preemption of certain State laws.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

Sec. 201. Study of medicare private health insurance program.
Sec. 202. Elimination of medicare hospital disproportionate share adjustment payments.
Sec. 203. Reduction in adjustment for indirect medical education.
Sec. 204. Imposition of copayment on laboratory services.
Sec. 205. Imposition of copayment for certain home health visits.
Sec. 206. Imposition of copayment for skilled nursing facility services.
Sec. 207. Shift payment updates to January for all payment rates under hospital insurance program.
Sec. 208. Acceleration of transition to prospective rates for facility costs in hospital outpatient departments.

Subtitle B—Medicaid

Sec. 211. Cap on Federal payments made for acute medical services under the medicaid program.
Sec. 212. Waivers for the furnishing of acute medical services under the medicaid program.
Sec. 213. Termination of disproportionate share payments.
Sec. 214. Grants for health insurance coverage, acute medical services, preventive care, and disease prevention.

TITLE III—HEALTH CARE LIABILITY REFORM

Sec. 301. Short title.
Sec. 302. Definitions.
Sec. 303. Health care malpractice.
Sec. 304. Health care product liability of manufacturer or seller.
Sec. 305. General provisions relating to health care liability.
Sec. 306. Punitive damages.
Sec. 307. Exceptions.
Sec. 308. Rules of construction.

TITLE IV—ADMINISTRATIVE COST SAVINGS

Subtitle A—Standardization of Claims Processing

Sec. 401. Adoption of data elements, uniform claims, and uniform electronic transmission standards.
Sec. 402. Application of standards.
Sec. 403. Periodic review and revision of standards.
Sec. 404. Health insurance plan defined.

Subtitle B—Electronic Medical Data Standards

Sec. 411. Medical data standards for hospitals and other providers.
Sec. 412. Application of electronic data standards to certain hospitals.
Sec. 413. Electronic transmission to Federal agencies.
Sec. 414. Limitation on data requirements where standards in effect.
Sec. 415. Advisory commission.

Subtitle C—Development and Distribution of Comparative Value Information

Sec. 421. State comparative value information programs for health care purchasing.
Sec. 422. Federal implementation.
Sec. 423. Comparative value information concerning Federal programs.

Subtitle D—Preemption of State Quill Pen Laws

Sec. 431. Preemption of State quill pen laws.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

Sec. 501. Penalties for health care fraud.
Sec. 502. Rewards for information leading to prosecution and conviction.

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

Sec. 511. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health insurance plan.

TITLE VI—ANTITRUST PROVISIONS

Sec. 601. Exemption from antitrust laws for certain competitive and collaborative activities.
Sec. 602. Safe harbors.
Sec. 603. Designation of additional safe harbors.
Sec. 604. Certificates of review.
Sec. 605. Notifications providing reduction in certain penalties under antitrust law for health care cooperative ventures.
Sec. 606. Review and reports on safe harbors and certificates of review.
Sec. 607. Rules, regulations, and guidelines.
Sec. 608. Definitions.

TITLE VII—LONG-TERM CARE

Sec. 701. Exclusion from gross income for amounts withdrawn from individual retirement plans or 401(k) plans for long-term care insurance.
Sec. 702. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.
Sec. 703. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 704. Effective date.


**SEC. 2. PURPOSES.**

The purposes of this Act are to—

(1) provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans,

(2) make the American health care system responsive to consumer needs and encourage

the provision of quality medical care at reasonable prices through enhanced competition,

(3) provide more equitable tax treatment of health insurance and medical care expenses, and

(4) assist low-income and uninsured Americans in purchasing health insurance and receiving primary medical care.

## TITLE I—TAX AND INSURANCE PROVISIONS

### Subtitle A—Tax Treatment of Health Care Expenses

**SEC. 101. REFUNDABLE HEALTH CARE EXPENSES TAX CREDIT.**

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

**"SEC. 34A. HEALTH CARE EXPENSES.**

"(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the sum of—

"(1) 25 percent of the sum of the qualified health insurance premiums and the unreimbursed expenses for medical care paid by such individual during the taxable year which does not exceed 10 percent of the adjusted gross income of such individual for such year, plus

"(2) 50 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 10 percent but does not exceed 20 percent of such adjusted gross income, plus

"(3) 75 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 20 percent of such adjusted gross income.

"(b) QUALIFIED INDIVIDUALS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified individual' means the taxpayer, the spouse of the taxpayer, and each dependent of the taxpayer (as defined in section 152) who is enrolled in a federally qualified health insurance plan.

"(2) FEDERALLY COVERED INDIVIDUALS.—The term 'qualified individual' does not include any individual whose medical care is covered under—

"(A) title XVIII or XIX of the Social Security Act,

"(B) chapter 55 of title 10, United States Code,

"(C) chapter 17 of title 38, United States Code, or

"(D) the Indian Health Care Improvement Act.

"(3) SPECIAL RULE IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.—Any child to whom section 152(e) applies shall be treated as a dependent of both parents.

"(4) MARRIAGE RULES.—The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

"(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage for any taxable year is determined by the number of whole months in such year in which the taxpayer is a qualified individual.

"(d) QUALIFIED HEALTH INSURANCE PREMIUMS.—For purposes of this section, the term 'qualified health insurance premiums' means premiums for—

"(1) a federally qualified health insurance plan, and

"(2) any other benefits or plans supplementary to such a federally qualified health insurance plan.

"(e) FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.—For purposes of this section, the term 'federally qualified health insurance plan' means a health insurance plan which is described in section 111 of the Consumer Choice Health Security Act of 1993.

"(f) MEDICAL CARE.—For purposes of this section—

"(1) IN GENERAL.—The term 'medical care' means amounts paid—

"(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, and

"(B) for transportation primarily for and essential to medical care referred to in subparagraph (A).

"(2) AMOUNTS PAID FOR CERTAIN LODGING AWAY FROM HOME TREATED AS PAID FOR MEDICAL CARE.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

"(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

"(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed $50 for each night for each individual.

"(3) COSMETIC SURGERY.—

"(A) IN GENERAL.—The term 'medical care' does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) COSMETIC SURGERY DEFINED.—For purposes of this paragraph, the term 'cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

"(4) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

"(g) SPECIAL RULES.—For purposes of this section—

"(1) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—

"(A) IN GENERAL.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

"(B) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(2) SPECIAL RULE FOR DECEDENTS.—

"(A) TREATMENT OF EXPENSES PAID AFTER DEATH.—Expenses for the medical care of the taxpayer which are paid out of the taxpayer's estate during the 1-year period beginning with the day after the date of the taxpayer's death shall be treated as paid by the taxpayer at the time incurred.

"(B) LIMITATION.—Subparagraph (A) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this subparagraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

"(i) a statement that such amount has not been allowed as a deduction under section 2053, and

"(ii) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

"(3) FORM OF INSURANCE CONTRACT.—In the case of an insurance contract under which amounts are payable for other than medical care—

"(A) no amount shall be treated as paid for insurance to which subsection (a) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

"(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

"(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

"(4) EXCLUSION OF AMOUNTS ALLOWED FOR CARE OF CERTAIN DEPENDENTS.—Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

"(5) COORDINATION WITH ADVANCE PAYMENT AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply to any credit to which this section applies.

"(6) SUBSIDIZED EXPENSES.—No expense shall be taken into account under subsection (a), if—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) the payment, reimbursement, or subsidy of such expense is not includable in the gross income of the recipient.

"(7) COORDINATION WITH MEDICAL SAVINGS ACCOUNTS.—The amount otherwise taken into account under subsection (a) shall be reduced by the amount (if any) of the distributions from any medical savings account of the taxpayer during the taxable year which is not includible in gross income by reason of being used for qualified medical expenses (as defined in section 25A(c)(2)).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following new section:

**"SEC. 3507A. ADVANCE PAYMENT OF HEALTH EXPENSES CREDIT.**

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a health care expenses eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's health care expenses advance amount.

"(b) HEALTH CARE EXPENSES ELIGIBILITY CERTIFICATE.—For purposes of this title, a health care expenses eligibility certificate is

a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 34A for the taxable year,

"(2) certifies that the employee does not have a health care expenses eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(3) states whether or not the employee's spouse has a health care expenses eligibility certificate in effect, and

"(4) estimates the amount of premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care (as defined in section 34A) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) HEALTH CARE EXPENSES ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'health expenses advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care included in the health care expenses eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Health care expenses.".

(2) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of health care expenses credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 102. MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

**"SEC. 25A. MEDICAL SAVINGS ACCOUNTS.**

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 25 percent of the amount paid in cash during such year by or on behalf of such individual to a medical savings account.

"(b) LIMITATIONS.—For purposes of this section—

"(1) ONLY 1 ACCOUNT PER FAMILY.—No credit shall be allowed under subsection (a) for amounts paid to any medical savings account for the benefit of an individual, such individual's spouse, or any dependent (as defined in section 152) of such individual if such individual, spouse, or dependent is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—The aggregate amount of contributions which may be taken into account under subsection (a) with respect to any individual for any taxable year shall not exceed the sum of—

"(A) $3,000, plus

"(B) $500 for each individual who is a dependent (as so defined) of the individual for whose benefit the account is established.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the individual for whose benefit the trust is established, but only if the written governing instrument creating the trust meets the following requirements:

"(i) No contribution will be accepted unless it is in cash and contributions will not be accepted for any taxable year in excess of the amount determined under subsection (b)(1).

"(ii) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(iii) No part of the trust assets will be invested in life insurance contracts.

"(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(v) The interest of an individual in the balance in such individual's account is nonforfeitable.

"(vi) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) shall apply to the distribution of the entire interest of beneficiaries of such trust.

"(B) TREATMENT OF COMPARABLE ACCOUNTS HELD BY INSURANCE COMPANIES.—An account held by an insurance company in the United States shall be treated as a medical savings account (and such company shall be treated as a bank) if—

"(i) such account is part of a federally qualified health insurance plan (as defined in section 34A(e)),

"(ii) such account is exclusively for the purpose of paying the medical expenses of the beneficiaries of such account who are covered under such health insurance plan, and

"(iii) the written instrument governing the account meets the requirements of clauses (i), (v), and (vi) of subparagraph (A).

"(2) QUALIFIED MEDICAL EXPENSES.—The term 'qualified medical expenses' means amounts paid by the individual for whose benefit the account was established for premiums for a federally qualified health insurance plan (as so defined) and the unreimbursed expenses for medical care (as determined under section 34A) of such individual, the spouse of such individual, and any dependent (as so defined) of such individual.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of a medical savings account shall be included in the gross income of the individual for whose benefit such account was established unless such amount is used exclusively to pay the qualified medical expenses of such individual.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount allowable under subsection (b) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) PENALTY FOR DISTRIBUTIONS NOT USED FOR MEDICAL EXPENSES.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used to pay the medical expenses of the individual for whose benefit the account was established, shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

"(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the individual for whose benefit the account is maintained, if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such individual not later than the 60th day after the day on which the individual received the payment or distribution.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit the medical savings account was established, such individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a medical savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day) and no portion of such distribution were used to pay qualified medical expenses.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a medical savings account was established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual and not used to pay qualified medical expenses.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (c).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each applicable dollar amount shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the deemed average total wages (as defined in section 209(k) of the Social Security Act) for the preceding calendar year, exceeds

"(B) the deemed average total wages (as so defined) for calendar year 1996.

"(3) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (1), the term 'applicable dollar amount' means the $3,000 and $500 amounts in subsection (b)(2).

"(4) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or, if such amount is a multiple of $5 and not of $10, such amount shall be rounded to the next highest multiple of $10).

"(h) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 25A(c)(1)),",

(3) by striking "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 25A(c)(1)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 25A(b)(2) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account and a distribution to which section 25A(d)(2) applies shall be treated as an amount not contributed.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of the Internal Revenue Code of 1986 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 25A(c)(1)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 25A(e)(2)(A) to such account.", and

(2) by inserting "or a medical savings account described in section 25A(c)(1)" in subsection (e)(1) after "described in section 408(a)".

(d) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "**OR ON MEDICAL SAVINGS ACCOUNTS**" after "**ANNUITIES**" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 25A(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following:

"Sec. 25A. Medical savings accounts.".

(2) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical savings accounts, certain 403(b) contracts, and certain individual retirement annuities.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 103. OTHER TAX PROVISIONS.**

(a) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—

(1) IN GENERAL.—Subsection (d) of section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new paragraph:

"(5) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—The exemption amount for any individual for such individual's taxable year shall be zero, unless the individual includes the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual in the return claiming such exemption amount for such individual.".

(2) EMPLOYER ROLE.—Section 3402 of the Internal Revenue Code of 1986 (relating to income tax collected at source) is amended—

(A) by striking "section 151(d)(2)" in subsection (f)(1)(A) and inserting "paragraph (2) or (5) of section 151(d)", and

(B) by adding at the end the following new subsection:

"(t) DETERMINATION OF STANDARD DEDUCTION STATUS.—For purposes of applying the tables in subsections (a) and (c) to a payment of wages, the employer shall treat the employee as having an exemption amount of zero unless there is in effect with respect to such payment of wages a withholding exemption certificate furnished to the employer by the employee by April 1, indicating the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(b) TERMINATION OF MEDICAL EXPENSE DEDUCTION.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—No amount paid after December 31, 1996, shall be treated as an expense paid for medical care.".

(c) TERMINATION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(d) TERMINATION OF EXCLUSION FOR EMPLOYER-PROVIDED HEALTH INSURANCE.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any amount paid after December 31, 1996.".

**Subtitle B—Insurance Provisions**

**PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN**

**SEC. 111. FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.**

(a) IN GENERAL.—A federally qualified health insurance plan is a health insurance plan offered, issued, or renewed on or after January 1, 1997, which is certified by the applicable regulatory authority as meeting, at a minimum, the requirements of sections 112, 113, 114, and 115, and the regulatory program described in section 117.

(b) GENERAL DEFINITIONS.—As used in this Act—

(1) HEALTH INSURANCE PLAN.—The term "health insurance plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement, but does not include any of the following offered by an insurer:

(A) Accident only, dental only, disability only, or long-term care only insurance.

(B) Coverage issued as a supplement to liability insurance.

(C) Workers' compensation or similar insurance.

(D) Automobile medical-payment insurance.

(2) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

(A) in the case of a State with a program described in section 117, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

(B) if the State has not established such a program or such program has been decertified under section 117(b), the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, America Samoa, and the Commonwealth of the Northern Mariana Islands.

**SEC. 112. FAMILY SECURITY BENEFITS PACKAGE.**

(a) IN GENERAL.—The requirements of this section are met, if the health insurance plan—

(1) provides coverage for all medically necessary acute medical care described in subsection (b),

(2) does not exclude coverage for selected illnesses or selected treatments if consistent with medically accepted practices, and

(3) meets the patient cost sharing requirements of subsection (c).

(b) ACUTE MEDICAL CARE.—Coverage for all medically necessary acute medical care is described in this subsection if such coverage includes—

(1) physician services,

(2) inpatient, outpatient, and emergency hospital services and appropriate alternatives to hospitalization, and

(3) inpatient and outpatient prescription drugs.

Nothing in this subsection may be construed to require the inclusion of abortion services.

(c) COST SHARING REQUIREMENTS.—The requirements of this subsection are as follows:

(1) LIMITATION ON DEDUCTIBLES.—A health insurance plan shall not provide a deductible amount for benefits provided in any plan year that exceeds—

(A) with respect to benefits payable for items and services furnished to a single individual enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $1,000; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

(B) with respect to benefits payable for items and services furnished to a family enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $2,000 per family; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by such percentage increase.

If the limitation computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—

(A) IN GENERAL.—A health insurance plan may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section after an individual or a family covered under the plan has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit for a plan year.

(B) LIMIT ON OUT-OF-POCKET EXPENSES.—As used in this paragraph—

(i) OUT-OF-POCKET EXPENSES DEFINED.—The term "out-of-pocket expenses" means, with respect to an individual or a family in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the individual or the family covered under the plan.

(ii) OUT-OF-POCKET LIMIT DEFINED.—The term "out-of-pocket limit" means for a plan year beginning in—

(I) a calendar year prior to 1998, $5,000; or

(II) for a subsequent calendar year, the limit specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

**SEC. 113. RATING PRACTICES.**

(a) IN GENERAL.—The requirements of this section are met, if, except as provided in subsection (b), the health insurance plan provides for—

(1) a variation in premium rates only on the basis of age, sex, and geography, and

(2) a charge of the same premium rates to new applicants and existing policyholders with the same age, sex, and geographic characteristics.

(b) INCENTIVE DISCOUNTS.—A plan may discount an individual's premium rate as an incentive for participating in a program, approved by the applicable regulatory authority to be offered in conjunction with the coverage, which has as its objective, 1 or more of the following:

(1) To promote healthy behavior.

(2) To prevent or delay the onset of illness.

(3) To provide for screening or early detection of illness.

**SEC. 114. GUARANTEED ISSUE.**

(a) IN GENERAL.—Except as provided in paragraph (2), in the case of applications made on and after January 1, 1998, the following rules apply:

(1) IN GENERAL.—The requirements of this section are met, if, except as provided in paragraph (2), the health insurance plan—

(A) provides guaranteed issue at standard rates to all applicants, and

(B) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant who, on the date the application is made, has been continuously insured for a period of at least 1 year prior to the date of the application under 1 or more of the following health insurance plans or programs:

(i) Another federally qualified health insurance plan.

(ii) An employer-sponsored group health insurance plan in effect before the date of the enactment of this Act.

(iii) An individual health insurance plan in effect before such date.

(iv) A program described in—

(I) title XVIII or XIX of the Social Security Act,

(II) chapter 55 of title 10, United States Code,

(III) chapter 17 of title 38, United States Code,

(IV) chapter 89 of title 5, United States Code, or

(V) the Indian Health Care Improvement Act.

(2) BREAK IN COVERAGE.—In the case of an applicant who has not been continuously insured for a period of 1 year prior to the date the application is made, the health insurance plan may exclude from coverage, or limit coverage for, any preexisting medical condition for a period no greater than the lesser of—

(A) the number of months immediately prior to the date of the application during which the individual was not insured since the illness or condition in question was first diagnosed, or

(B) 1 year.

(b) TRANSITION RULE.—In the case of applications made in 1997, the requirements of this section are met, if the health insurance plan—

(1) provides guaranteed issue at standard rates to all applicants, and

(2) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant.

**SEC. 115. GUARANTEED RENEWABILITY.**

The requirements of this section are met, if the health insurance plan provides the policyholder with a contractual right to renew the coverage which stipulates that the insurer cannot cancel or refuse to renew the coverage except for cases of—

(1) nonpayment of premiums by the policyholder, or

(2) fraud or misrepresentation by the policyholder.

**PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS**

**SEC. 117. ESTABLISHMENT OF REGULATORY PROGRAM FOR CERTIFICATION OF PLANS.**

(a) IN GENERAL.—Each State shall establish no later than January 1, 1997, a regulatory program which meets the standards referred to in section 118.

(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review each State regulatory

program to determine if such program continues to meet and enforce the standards referred to in section 118. If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards after such an opportunity, the Secretary shall decertify such program and assume responsibility with respect to health insurance plans in the State.

**SEC. 118. STANDARDS FOR REGULATORY PROGRAMS.**

(a) IN GENERAL.—The Secretary, in consultation with the National Association of Insurance Commissioners (hereafter in this section referred to as "NAIC") shall develop by not later than 1 year after the date of the enactment of this Act, in the form of model Acts and model regulations, State regulatory program standards which include—

(1) procedures for certifying that the requirements of part I of this subtitle have been met by a health insurance plan applying for certification as a federally qualified health insurance plan,

(2) the requirements described in subsections (b), (c), and (d),

(3) requirements with respect to solvency standards and guaranty funds for carriers of federally qualified health insurance plans, and

(4) reporting requirements under which carriers report to the Internal Revenue Service regarding the acquisition and termination by individuals of coverage under federally qualified health insurance plans.

(b) PASSBACK OF CLAIMS AND PREMIUMS.—The requirements of this subsection are met, if, in the case of an applicant who has been continuously insured, as described in section 114(b)(1)(B), and is at the time of the application receiving treatment for a preexisting medical condition—

(1) the federally qualified health insurance plan is allowed to pass back to the applicant's previous plan any claims relating to such condition, together with a portion of the premium, and

(2) such previous plan is required to pay such claims and premium incurred during the lesser of—

(A) the duration of the course of the treatment or spell of illness, or

(B) 2 years from the date at which coverage commenced under the federally qualified health insurance plan.

(c) MARKETING PRACTICES.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan retains the right to select agents with whom such plan contracts and to determine the amount and form of compensation to such agents, except that—

(1) if the carrier chooses to contract with an agent, the carrier may not terminate or refuse to renew the agency contract for any reason related to the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan, and

(2) the carrier may not, directly or indirectly, enter into any contract, agreement, or arrangement with an agent that provides for, or results in, any consideration provided to such agent for the issuance or renewal of such a plan to vary on account of the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan.

(d) RISK ADJUSTMENT OR REINSURANCE PROGRAMS.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan participates in a State-administered risk adjustment program (or, at the option of the State, a reinsurance program) designed to compensate for the potential occurrence of grossly disproportionate distributions of above-standard or below-standard insured risks among federally qualified health insurance plans.

(e) NONBINDING STANDARDS.—The Secretary, in consultation with NAIC, shall also develop within the 1-year period described in subsection (a), nonbinding standards for premium rating practices and guaranteed renewability of coverage which, if the insurer so elects, is more generous (additional benefits or lower cost sharing or both) than the requirements under part I of this subtitle for federally qualified health insurance plans.

**Subtitle C—Employer Provisions**

**SEC. 121. GENERAL PROVISIONS RELATING TO EMPLOYERS.**

(a) PREMIUMS WITHHELD.—Each employer shall—

(1) withhold from each employee's wages the amount of the employee's health insurance premium and remit, directly or indirectly, such premium to the insurance plan of the employee's choice according to an agreed upon schedule, and

(2) within the first 30 days of any calendar year or the date of the hire of an employee, notify each employee of the employee's right to claim an advance refundable tax credit for such premium under section 34A of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—The requirements under subsection (a) shall apply with respect to calendar year 1997 and thereafter.

**SEC. 122. CONVERSION OF NON-SELF-INSURED PLANS.**

In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is not a self-insured plan, the insurer from whom the plan was purchased (or, in the event such insurer refuses, any new subsidiary, corporation, insurer, union, cooperative, or association willing to become the new sponsor of the plan) shall—

(1) notify, not later than October 1, 1996, all of the primary insured beneficiaries of the employer-sponsored plan of their rights to convert their insurance coverage to a federally qualified health insurance plan (as defined in section 111) offered by the insurer with benefits identical to, or actuarially equivalent to, those of the employer-sponsored plan and the rates of that coverage, and provide such beneficiaries 60 additional days to decline or accept the new coverage, and

(2) offer such coverage beginning January 1, 1997, at premium rates which vary only by age, sex, and geography, except that the combined total of the new rates charged separately to the various beneficiaries may not exceed the total group rate paid by the employer or employees or both under the employer-sponsored plan on the last day it is, or was, in force.

**SEC. 123. PROVISIONS RELATING TO EXISTING SELF-INSURED PLANS.**

(a) IN GENERAL.—In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is a self-insured plan, the employer sponsoring the plan may, at anytime following such date sell, transfer, or assign the plan to any existing or new, subsidiary, corporation, insurer, union, cooperative or association, willing to become the new sponsor of the plan, except that—

(1) such sale, transfer, or assignment may not take effect unless first approved by a two-thirds majority vote of all the primary-insured beneficiaries of the plan, and

(2) the terms or conditions and benefits or coverage of the plan, and the eligibility criteria for participation in the plan, may not be altered before such date.

(b) PROVISIONS GOVERNING PLAN.—As of the date of the enactment of this Act, the sponsor of the plan described in subsection (a) becomes subject to all laws governing the operation of a corporation selling health insurance in the applicable State or States and to the provisions of section 122.

**SEC. 124. CONTINUATION OF EMPLOYER-PROVIDED HEALTH COVERAGE REQUIRED UNTIL EFFECTIVE DATE OF NEW COVERAGE UNDER THIS ACT.**

(a) IN GENERAL.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by inserting after subclause (V) the following new subclause:

"(VI) QUALIFYING EVENT INVOLVING END OF PLAN.—In the case of an event described in paragraph (3)(G), December 31, 1996.".

(b) QUALIFYING EVENT INVOLVING END OF PLAN.—Paragraph (3) of section 4980B(f) of the Internal Revenue Code of 1986 (defining qualifying event) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The termination by the employer of the group health plan after the date of the enactment of the Consumer Choice Health Security Act of 1993.".

(c) CONFORMING AMENDMENT.—Clause (ii) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "The date" and inserting "Except in the case of a qualifying event described in paragraph (3)(G), the date".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring after the date of the enactment of this Act.

**SEC. 125. REQUIREMENTS WITH RESPECT TO CASHING OUT EMPLOYER-SPONSORED PLANS.**

(a) NON-FEDERAL EMPLOYERS.—

(1) IN GENERAL.—Each employer contributing in whole or in part to an employer-sponsored health insurance plan on December 1, 1996, shall, within 30 days after such date—

(A) notify each employee participating in the plan of the amount spent by the employer on the employee's health insurance, as determined under paragraph (2),

(B) add such amount to the cash wages of the employee commencing with pay periods beginning on and after January 1, 1997, and

(C) hold each employee harmless for the employer's share of any payroll taxes due under chapter 31 of the Internal Revenue Code of 1986 on such amount.

(2) AMOUNT OF INCLUSION.—The amount described in paragraph (1)(A) shall equal the actuarial value of the employer's contribution for group health issuance coverage apportioned to the plan's beneficiaries according to the new premiums for individual and family coverage determined by the insurer.

(3) PRIOR TERMINATION.—Any beneficiary of an employer-sponsored health insurance plan who voluntarily terminates coverage under such a plan before December 1, 1996, forfeits the right to receive the value of the beneficiary's coverage in cash.

(b) COMMISSION ON CASHING OUT FEHBP BENEFITS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established an independent board to be known as the "Benefits Cash Out Commission" (in this subtitle, referred to as the "Commission").

(B) DUTIES.—The Commission shall study and propose a procedure under which individuals may cash out health benefits under chapter 89 of title 5, United States Code, and pay scales and retirement benefits would be adjusted accordingly. The Commission shall report to Congress regarding such study and proposal not later than 1 year after the date of the enactment of this Act.

(C) MEMBERSHIP.—

(i) IN GENERAL.—The Commission shall be composed of 13 members appointed by the President by and with the advice and consent of the Senate.

(ii) CONSULTATION.—In selecting individuals for nominations for appointments for the Commission, the President should consult with—

(I) the Speaker of the House of Representatives concerning the appointment of 3 members;

(II) the Majority Leader of the Senate concerning the appointment of 3 members;

(III) the Minority Leader of the House of Representatives concerning the appointment of 3 members; and

(IV) the Minority Leader of the Senate concerning the appointment of 3 members.

(iii) CHAIR.—The President shall designate 1 individual described in clause (ii) who shall serve as Chair of the Commission.

(iv) COMPOSITION OF COMMISSION.—The membership of the Commission shall include individuals with national recognition for expertise in the valuation of health insurance benefits and of Federal civilian pay and retirement benefits.

(D) ADMINISTRATIVE PROVISIONS.—

(i) MEETINGS.—Each meeting of the Commission shall be open to the public.

(ii) PAY AND TRAVEL EXPENSES.—

(I) IN GENERAL.—Each member, other than the Chair, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(II) CHAIR.—The Chair shall be paid for each day referred to in subclause (I) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(III) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(iii) STAFF.—

(I) IN GENERAL.—Subject to subclauses (II) and (III), the Chair, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(II) PAY.—The Chair may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS-15 of the General Schedule.

(III) DETAILED PERSONNEL.—Upon request of the Chair, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(iv) OTHER AUTHORITY.—

(I) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(II) LEASES, ETC.—The Commission may lease space and acquire personal property to the extent funds are available.

(2) CONSIDERATION.—

(A) IN GENERAL.—The proposal described in paragraph (1)(B) shall be considered by the Congress under the procedures for consideration of an "approval resolution" as described in subparagraph (D).

(B) EFFECTIVE DATE OF IMPLEMENTATION.—The provisions of the proposal shall become effective on January 1, 1997.

(C) PERIOD FOR RESUBMISSION OF PROPOSAL IN CASE OF NONAPPROVAL.—If the proposal of the Commission described in subparagraph (A) is not approved by Congress, the Commission shall by not later than January 1, 1996, submit a new proposal to Congress.

(D) RULES GOVERNING CONGRESSIONAL CONSIDERATION.—

(i) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subparagraph is enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in clause (ii), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(ii) TERMS OF THE RESOLUTION.—For purposes of subparagraph (A), the term "approval resolution" means only a joint resolution of the 2 Houses of the Congress, providing in—

(I) the matter after the resolving clause of which is as follows: "That the Congress approves the recommendations of the Benefits Cash Out Commission as submitted by the Commission on _____", the blank space being filled in with the appropriate date; and

(II) the title of which is as follows: "Joint Resolution approving the recommendation of the Benefits Cash Out Commission".

(iii) INTRODUCTION AND REFERRAL.—On the day on which the recommendation of the Commission is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such recommendation shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such recommendation is transmitted, the approval resolution with respect to such recommendation shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The approval resolution introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(iv) AMENDMENTS PROHIBITED.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this clause shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.

(v) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(I) IN GENERAL.—Except as provided in subclause (II), if the committee or committees of either House to which an approval resolution has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the approval resolution and it shall be placed on the appropriation calendar. A vote on final passage of the approval resolution shall be taken in each House on or before the close of the 30th day after the approval resolution is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the approval resolution. If prior to the passage by 1 House of an approval resolution of that House, that House receives the same approval resolution from the other House then the procedure in that House shall be the same as if no approval resolution had been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

(II) COMPUTATION OF DAYS.—For purposes of subclause (I), in computing a number of days in either House, there shall be excluded any day on which the House is not in session.

(vi) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(I) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) DEBATE.—Debate in the House of Representatives on an approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(III) MOTION TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of an approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(IV) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(V) GENERAL RULES APPLY.—Except to the extent specifically provided in the preceding provisions of this clause, consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(vii) FLOOR CONSIDERATION IN THE SENATE.—

(I) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an

approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) GENERAL DEBATE.—Debate in the Senate on an approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(III) DEBATE OF MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the approval resolution, except that in the event the manager of the approval resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(IV) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

**SEC. 126. ENFORCEMENT.**

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by inserting after section 5000 the following new sections:

**"SEC. 5000A. FAILURE OF EMPLOYERS WITH RESPECT TO HEALTH INSURANCE.**

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to comply with the requirements of sections 121 and 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to an employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to comply with the requirements of section 121 or 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a health insurance plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the health insurance plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

**"SEC. 5000B. FAILURE OF CARRIERS WITH RESPECT TO HEALTH INSURANCE.**

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any carrier offering any health insurance plan to comply with the requirements of sections 122 and 123 of the Consumer Choice Health Security Act of 1993.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 50 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued by the carrier on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 carrier. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 carrier. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the carrier on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the carriers on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(b) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new items:

"Sec. 5000A. Failure of employers with respect to health insurance.

"Sec. 5000B. Failure of carriers with respect to health insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

**Subtitle D—State Plan Requirements**

**SEC. 131. STATE PLAN REQUIREMENTS.**

(a) IN GENERAL.—As a condition of receiving Federal funds for health care programs after December 31, 1996, each State shall meet the requirements of the following subsections.

(b) HEALTH PLANS FOR UNINSURED.—The requirement of this subsection is met, if the State establishes a program to provide health insurance coverage at least equal to that of the federally qualified health insurance plans (as defined in section 111) to any resident (other than a federally covered individual (within the meaning on section 34A(b)(2) of the Internal Revenue Code of 1986) who refuses to voluntarily purchase such insurance coverage privately. Such coverage may be through—

(1) the State's program under title XIX of the Social Security Act,

(2) an existing or new State health care program, including a State program established under section 1933 of the Social Security Act,

(3) any private insurer the State contracts with for this purpose, or

(4) any health insurance plan available to the resident.

(c) ENROLLMENT IN PLAN.—The requirement of this subsection is met, if—

(1) in the case of any uninsured individual described in subsection (b) who is eligible for assistance under a State program established under section 1933 of the Social Security Act, such individual is identified by the State and provided with assistance through such a program, and

(2) in the case of any uninsured individual described in subsection (b) who is not eligible for such assistance, such individual is identified by the State and automatically

enrolled in the program described in subsection (b), except that—

(A) the State may charge such individual a premium for coverage under the program which the State deems appropriate given the cost of coverage and the individual's ability to pay, and

(B) such individual may, upon submitting proof of having purchased a federally qualified health insurance plan (as so defined), terminate coverage under the State program without penalty.

(d) MONITORING.—The requirement of this subsection is met, if the State designates or creates an office of the State government to monitor the health insurance coverage status of workers and their dependents residing in the State for the purposes of determining eligibility for State health care assistance programs.

**Subtitle E—Federal Preemption**

**SEC. 141. FEDERAL PREEMPTION OF CERTAIN STATE LAWS.**

All State laws in existence on January 1, 1997, in the following areas are preempted:

(1) MANDATED INSURANCE BENEFIT LAWS.—Laws requiring health insurance policies to cover specific diseases, services, or providers.

(2) ANTI-MANAGED CARE LAWS.—Laws restricting the ability of managed care plans to selectively contract with providers of their choice.

(3) MANDATED COST-SHARING LAWS.—Laws restricting the extent to which insurers may require enrollee cost sharing as part of their plans, or restricting the extent to which managed care plans may impose different levels of cost sharing on enrollee claims for treatment by providers not participating in the plan.

**TITLE II—MEDICARE AND MEDICAID REFORMS**

**Subtitle A—Medicare**

**SEC. 201. STUDY OF MEDICARE PRIVATE HEALTH INSURANCE PROGRAM.**

(a) STUDY.—The Secretary shall conduct a study of the feasibility of permitting future medicare beneficiaries to elect, upon attaining medicare eligibility, to retain private health insurance coverage and receive, in lieu of the medicare benefits such beneficiaries would otherwise be entitled to, certificates for use in purchasing private health insurance coverage. The study shall recommend—

(1) certificate amounts which—

(A) provide the maximum assistance possible to eligible individuals,

(B) are adjusted for different classes of beneficiaries on the basis of age, sex, and geography to reflect actuarial differences in the cost of insurance, and

(C) will not further jeopardize the future solvency of the medicare program, as projected by the trustees of the medicare trust funds as of the date of the report of the study,

(2) a mechanism for annually adjusting such amounts, and

(3) legislative, regulatory, and administrative reforms necessary or desirable for establishing such a program.

(b) REPORT.—The Secretary shall submit a report regarding the study described in subsection (a) to the Congress no later than January 1, 1996.

**SEC. 202. ELIMINATION OF MEDICARE HOSPITAL DISPROPORTIONATE SHARE ADJUSTMENT PAYMENTS.**

Section 1886(d)(5)(F)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(i)) is amended by inserting "and before September 30, 1994," after "1986,".

**SEC. 203. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.**

Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c * (((1+r) to the nth power) - 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1994, 'c' is equal to 1.89,

"(II) October 1, 1994, and before October 1, 1995, 'c' is equal to 1.395, and

"(III) October 1, 1995, 'c' is equal to 0.74.".

**SEC. 204. IMPOSITION OF COPAYMENT ON LABORATORY SERVICES.**

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after October 1, 1994.

**SEC. 205. IMPOSITION OF COPAYMENT FOR CERTAIN HOME HEALTH VISITS.**

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for home health services furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all per visit costs for home health services furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year), unless such services were furnished to the individual during the 30-day period that begins on the date the individual is discharged as an inpatient from a hospital.".

(2) PART B.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(F) with respect to home health services—

"(i) the lesser of —

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A),

"(ii) if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2), or

"(iii) if (and for so long as) the conditions described in section 1814(b)(3) are met, the amounts determined under the reimbursement system described in such section,

less a copayment amount equal to 20 percent of the average of all per visit costs for home health services furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year), unless such services were furnished to the individual during the 30-day period that begins on the date the individual is discharged as an inpatient from a hospital;".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of such Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health services furnished on or after October 1, 1994.

**SEC. 206. IMPOSITION OF COPAYMENT FOR SKILLED NURSING FACILITY SERVICES.**

(a) IN GENERAL.—Paragraph (3) of section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a copayment amount equal to 20 percent of the average of all per day costs for such services furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to post-hospital extended care services furnished on or after October 1, 1994.

**SEC. 207. SHIFT PAYMENT UPDATES TO JANUARY FOR ALL PAYMENT RATES UNDER HOSPITAL INSURANCE PROGRAM.**

(a) PPS HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) in the matter preceding subclause (I), by striking "fiscal year" and inserting "particular time period",

(B) in subclause (IX), by striking "fiscal year 1994", and inserting "the 15-month period beginning on October 1, 1993",

(C) in subclauses (X), (XI), and (XII), by striking "fiscal year", and

(D) in subclause (XIII), by striking "fiscal year 1998 and each subsequent fiscal year" and inserting "1998 and each subsequent calendar year".

(2) OTHER HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(ii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "fiscal years 1994 through 1997" and inserting "the 15-month period beginning on October 1, 1993,", and

(ii) by striking "and" at the end, and

(B) by striking subclause (VI) and insert the following:

"(VI) 1995 through 1997, is the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)), or in the case of a hospital for a calendar year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, and

"(VII) subsequent calendar years is the market basket percentage increase.".

(B) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI)—

"(I) a hospital's 'update adjustment percentage' for a calendar year is the percentage by which the hospital's allowable operating cost of inpatient hospital services recognized under this title for the cost reporting period beginning in fiscal year 1990 exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, increased for each calendar year (beginning with 1995) by the sum of any of the hospital's applicable reductions under subclause (VI) for previous years; and

"(II) the 'applicable reduction' with respect to a hospital for a calendar year is the lesser of 1 percentage point or the percentage point difference between 10 percent and the hospital's update adjustment percentage for the calendar year.".

(3) SOLE COMMUNITY AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(iv) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(i) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993",

(ii) in subclause (III), by striking "fiscal year", and

(iii) in subclause (IV), by striking "fiscal year 1996 and each subsequent fiscal year" and inserting "1996 and each subsequent calendar year".

(B) TARGET AMOUNT ADJUSTMENT.—Section 1886(b)(3)(C) of such Act (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(i) in clause (iii), by inserting "or portion of a cost reporting period occurring before December 31, 1994," before "the target amount", and

(ii) in clause (iv), by striking "fiscal year 1995 and each subsequent fiscal year" and inserting "1995 and each subsequent year".

(C) EXTENSION OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii)(II) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)(II)) is amended—

(i) by striking "for discharges occurring during a fiscal year ending on or before September 30, 1996" and inserting "for discharges occurring during the 15-month period beginning on October 1, 1993, and during any calendar year ending on or before December 31, 1996", and

(ii) by striking "such fiscal year" and inserting "such 15-month period or such calendar year, as the case may be".

(4) CONFORMING AMENDMENTS.—

(A) Section 1886(b)(3)(B)(iii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(i) by inserting "beginning in" after "cost reporting periods",

(ii) by striking "fiscal year" the first place it appears and inserting "particular time period",

(iii) by striking "or fiscal year" the first and second place it appears, and

(iv) by striking "cost reporting period or fiscal year" and inserting "period".

(B) Section 1886(d)(1)(A) of such Act (42 U.S.C. 1395ww(d)(1)(A)) is amended in the matter preceding clause (i) by inserting "or calendar" after "fiscal".

(C) Section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) is amended by inserting "or calendar" after "fiscal" each place it appears.

(D) Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended in the first sentence by inserting "or calendar" after "fiscal" the first place it appears and by inserting "for each fiscal year through 1994" after "in the United States, and".

(E) Section 1886(d)(3)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(ii)) is amended—

(i) by striking "1994," and inserting "1993, and occurring in the 15-month period beginning on October 1, 1993,", and

(ii) by striking "fiscal year" the second and last place it appears and inserting "time period".

(F) Section 1886(d)(3)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking "the fiscal year beginning on October 1, 1994" and inserting "1995".

(G) Section 1886(d)(3)(A)(iv) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(i) by striking "fiscal year beginning on or after October 1, 1995" and inserting "year beginning on or after January 1, 1996",

(ii) by striking "and within each region", and

(iii) by striking "fiscal" each place it appears.

(H) Section 1886(d)(3)(D) of such Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(i) by inserting "or calendar" after "fiscal" each place it appears, and

(ii) by inserting "for each fiscal year through 1994" after "and shall establish".

(I) Section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(i) in the second sentence, by striking "at least every 12 months thereafter" and inserting "beginning January 1, 1995, at least every 12 months thereafter", and

(ii) in the last sentence, by inserting "or calendar" after "fiscal" the first and last place it appears.

(J)(i) Section 1886(d)(4)(C)(iii) of such Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) is amended—

(I) by inserting "or calendar" after "fiscal" the first place it appears, and

(II) by deleting "fiscal" the last place it appears.

(ii) The requirements of paragraphs (3)(E) and (4)(C)(iii) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(K)(i) Section 1886(d)(5)(A) of such Act (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(I) in clause (i), by striking "fiscal years ending on or before September 30, 1997" and inserting "calendar years ending on or before December 31, 1997",

(II) in clause (ii), by striking "fiscal years beginning on or after October 1, 1994" and inserting "calendar years beginning on or after January 1, 1995",

(III) in clause (iv), by inserting "or calendar" after "fiscal",

(IV) in clause (v), by striking "fiscal year" each place it appears, and

(V) in clause (vi), by striking "fiscal" and inserting "calendar".

(ii) The requirement of section 1886(d)(5)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(L) Section 1886(d)(5)(E)(ii) of such Act (42 U.S.C. 1395ww(d)(5)(E)(ii)) is amended by inserting "or calendar" after "fiscal".

(M) Section 1886(d)(6) of such Act (42 U.S.C. 1395ww(d)(6)) is amended by inserting "or December 1 of each calendar year (beginning with calendar year 1995)" after "1984)".

(N) Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended in the matter preceding clause (i) by striking "fiscal year" and inserting "particular time period".

(O) Section 1886(d)(9)(C)(i) of such Act (42 U.S.C. 1395ww(d)(9)(C)(i)) is amended—

(i) by striking "fiscal year" the first place it appears and inserting "time period",

(ii) by striking "for fiscal year 1989", and

(iii) by striking "fiscal years" and inserting "time periods".

(P) Section 1886(d)(10)(C) of such Act (42 U.S.C. 1395ww(d)(10)(C)) is amended—

(i) in clause (i), by striking "fiscal year" and inserting "particular time period", and

(ii) in clause (ii), by inserting "or calendar" after "fiscal" the first place it appears and striking "fiscal" the last place it appears.

(Q) Section 1886(e)(2) of such Act (42 U.S.C. 1395ww(e)(2)) is amended—

(i) in subparagraph (A), by striking "fiscal years" and inserting "particular time periods", and

(ii) in subparagraph (B), by striking "fiscal year" each place it appears and inserting "particular time period".

(R) Section 1886(e)(3) of such Act (42 U.S.C. 1395ww(e)(3)) is amended—

(i) in subparagraph (A)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1986)", and

(II) by striking "that fiscal year" and inserting "the succeeding year", and

(ii) in subparagraph (B)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1989)", and

(II) by striking "that fiscal year" and inserting "the succeeding year".

(S) Section 1886(e)(4)(A) of such Act (42 U.S.C. 1395ww(e)(4)(A)) is amended in the first sentence by striking "fiscal" the first and last place it appears and by striking "(beginning with fiscal year 1988)".

(T) Section 1886(e)(4)(B) of such Act (42 U.S.C. 1395ww(e)(4)(B)) is amended by striking "fiscal" the first place it appears and by striking "(beginning with fiscal year 1992)".

(U) Section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) is amended—

(i) in subparagraph (A), by striking "the May 1 before each fiscal year (beginning with fiscal year 1986) and inserting "May 1" and by striking "that fiscal year" and inserting "the succeeding year",

(ii) in subparagraph (B), by striking "fiscal".

(V) The second and third sentences of section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) are each amended by striking "fiscal" each place it appears.

(W) Section 1886(g)(1)(A) of such Act (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(i) by striking "fiscal years 1992, through 1995" and inserting "fiscal years 1992 and 1993, the 15-month period beginning on October 1, 1993, and calendar year 1995", and

(ii) by striking "such fiscal year" and inserting "such period".

(5) CLERICAL AMENDMENTS CONCERNING TRANSITIONAL PAYMENTS FOR A RECLASSIFIED HOSPITAL.—

(A) Section 1886(d)(8)(A) of such Act (42 U.S.C. 1395ww(d)(8)(A)) is amended in the matter preceding clause (i), by striking "cost reporting periods" and inserting "years".

(B) Section 1886(d)(8)(A)(i) of such Act (42 U.S.C. 1395ww(d)(8)(A)(i)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(C) Section 1886(d)(8)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(8)(A)(ii)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(b) HOME HEALTH AGENCIES.—Clause (iii) of section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by striking "July 1, 1991, and annually thereafter (but not for cost reporting periods beginning on and after July 1, 1994, and before July 1, 1996)" and inserting "July 1 of 1991, 1992, and 1993 (but not for cost reporting periods beginning on and after July 1, 1994, and before January 1, 1997), and annually thereafter ".

(c) HOSPICE CARE.—

(1) IN GENERAL.—Clause (ii) of section 1814(i)(1)(C) of such Act (42 U.S.C. 1395f(i)(1)(C)) is amended—

(A) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993", and

(B) in subclauses (III), (IV), (V), and (VI), by striking "fiscal year" each place it appears and inserting "calendar year".

(2) CONFORMING AMENDMENT.—Section 1814(i)(2) of such Act (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'accounting year' means—

"(i) fiscal years 1985 through 1993,

"(ii) the 15-month period beginning on October 1, 1993, and

"(iii) calendar years beginning on or after January 1, 1995.".

(d) SKILLED NURSING FACILITY SERVICES.—

(1) IN GENERAL.—The last sentence of section 1888(a) of such Act (42 U.S.C. 1395yy(b)) is amended by striking "October 1, 1995" and inserting "January 1, 1996".

(2) CONFORMING AMENDMENTS.—

(A) Section 1888(d)(4) of such Act (42 U.S.C. 1395yy(d)(4)) is amended by striking "fiscal" each place it appears.

(B) Subsections (a)(1) and (b) of section 13503 of the Omnibus Budget Reconciliation Act of 1993 are amended by striking "fiscal years 1994 and 1995" each place it appears and inserting "the 15-month period beginning on October 1, 1993, and calendar year 1995".

**SEC. 208. ACCELERATION OF TRANSITION TO PROSPECTIVE RATES FOR FACILITY COSTS IN HOSPITAL OUTPATIENT DEPARTMENTS.**

(a) OUTPATIENT SURGERY.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) in subclause (I)—

(A) by striking "and 42 percent" and inserting "42 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 25 percent for portions of cost reporting periods beginning in fiscal year 1995, and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995", and

(2) in subclause (II)—

(A) by striking "and 58 percent" and inserting "58 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 75 percent for portions of cost reporting periods beginning in fiscal year 1995, and 100 percent for portions of cost reporting periods beginning on or after October 1, 1995".

(b) OUTPATIENT RADIOLOGY AND DIAGNOSTIC SERVICES.—Section 1833(n)(1)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking "January 1, 1991." and inserting "January 1, 1991, and beginning on or before September 30, 1994. The term means 25 percent for portions of cost reporting periods beginning in fiscal year 1995 and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995.".

**Subtitle B—Medicaid**

**SEC. 211. CAP ON FEDERAL PAYMENTS MADE FOR ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.**

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"CAP ON FEDERAL PAYMENT MADE FOR ACUTE MEDICAL SERVICES FURNISHED UNDER THE MEDICAID PROGRAM

"SEC. 1931. (a) ANNUAL FEDERAL CAP.—For purposes of furnishing acute medical services to eligible individuals, the Secretary shall pay to a State for a fiscal year under section 1903 an amount that does not exceed the State's total funding amount for such fiscal year determined under subsection (b).

"(b) STATE TOTAL FUNDING AMOUNT.—

"(1) IN GENERAL.—A State's total funding amount for a fiscal year is an amount equal to the lesser of—

"(A) the sum of—

"(i) the product of—

"(I) the per-adult funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are at least 21 years of age who will receive acute medical services in the State during the fiscal year; and

"(ii) the product of—

"(I) the per-child funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are under 21 years of age who will receive acute medical services in the State during the fiscal year; or

"(B) the maximum Federal amount for such State (as determined under paragraph (3)).

"(2) PER-ADULT AND PER-CHILD FUNDING AMOUNTS.—The Secretary shall calculate for each State a per-adult funding amount and a per-child funding amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995—

"(I) the per-adult funding amount for a State shall be an amount equal to the base per-adult funding amount determined under subparagraph (B) increased by 20 percent of such amount; and

"(II) the per-child funding amount for the State shall be an amount equal to the base per-child funding amount for the State determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the per-adult funding amount for a State and the per-child funding amount for a State, respectively, shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 1 percentage point.

"(B) BASE PER-ADULT FUNDING AMOUNT.—The base per-adult funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were at least 21 years of age; divided by

"(ii) the total number of eligible individuals who were at least 21 years of age who received acute medical services in such State during fiscal year 1993.

"(C) BASE PER-CHILD FUNDING AMOUNT.—The base per-child funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were under 21 years of age; divided by

"(ii) the total number of eligible individuals who were under 21 years of age who received acute medical services in such State during fiscal year 1993.

"(3) MAXIMUM FEDERAL AMOUNT.—The Secretary shall calculate for each State a maximum Federal amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995, the maximum Federal amount for a State shall be an amount equal to the base maximum Federal amount determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the maximum Federal amount for a State shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 2.5 percentage points.

"(B) BASE MAXIMUM FEDERAL AMOUNT.—

"(i) IN GENERAL.—The base maximum Federal amount for a State is an amount equal to the State's applicable percentage (as determined under clause (ii)) of the State's total maximum amount (as determined under clause (iii)).

"(ii) STATE'S APPLICABLE PERCENTAGE.—A State's applicable percentage determined under this clause is a percentage equal to the quotient of—

"(I) the amount of Federal funds paid to the State for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993, divided by

"(II) the amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(iii) STATE'S TOTAL MAXIMUM AMOUNT.—A State's total maximum amount determined under this clause is an amount equal to the applicable percentage of the total amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(c) MINIMUM EXPENDITURE BY STATES.—

"(1) IN GENERAL.—For the purpose of furnishing acute medical services to eligible individuals and providing administrative services to such individuals in a fiscal year, a State shall incur expenditures which are at least equal to the product of—

"(A) the State's updated per capita amount, and

"(B) the total number of eligible individual's receiving acute medical services in the State during such fiscal year.

"(2) UPDATED PER CAPITA AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The updated per capita amount for a State shall be—

"(i) for fiscal year 1995, an amount equal to the State's base per capita amount, and

"(ii) for fiscal year 1996 and each succeeding fiscal year, an amount equal to the amount determined under this subparagraph for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(B) BASE PER CAPITA AMOUNT.—The base per capita amount for a State shall be an amount equal to the quotient of—

"(i) the total amount of State expenditures in fiscal year 1993 for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals, divided by

"(ii) the total number of eligible individuals receiving acute medical services during fiscal year 1993.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ACUTE MEDICAL SERVICES.—The term 'acute medical services' means all of the care and services furnished to individuals eligible under a State plan under this title except the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)).

"(J) Hospice care (as defined in section 1905(o)).

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is eligible to receive medical assistance under the State plan under this title.

"(3) FEDERAL FUNDS.—The term 'Federal funds' means funds paid to a State under section 1903, excluding funds paid under such section with respect to expenditures by such State in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(4) STATE EXPENDITURES.—The term 'State expenditures' means expenditures by a State under its plan under this title, excluding expenditures in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

**SEC. 212. WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.**

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1932 as section 1933 and by inserting after section 1931 the following new section:

"WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM

"SEC. 1932. (a) IN GENERAL.—The Secretary shall establish a process under which a State with a State plan approved under this title may apply for waivers of any of the requirements under this title in order to establish innovative and cost effective programs for furnishing acute medical services (as defined in section 1931(d)(1)) to eligible individuals (as defined in section 1931(d)(2)).

"(b) APPLICATION FOR WAIVERS.—

"(1) IN GENERAL.—In order to receive a waiver under subsection (a), a State shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

"(2) APPROVAL OF APPLICATION.—

"(A) INITIAL REVIEW.—Within 60 days after an application is submitted by the State under this subsection, the Secretary shall review and approve such application or provide the State with a list of the modifications that are necessary for such application to be approved.

"(B) ADDITIONAL REVIEW.—Within 60 days after a State resubmits any application under this subsection, the Secretary shall review and approve such application or provide the State with a summary of which items included on the list provided to the State under subparagraph (A) remain unsatisfied. A State may resubmit an application under this subparagraph as many times as necessary to gain approval.

"(c) DURATION OF WAIVERS.—Except as provided in subsection (d), any waiver under this section shall be granted for a period of 5 years, and renewed for subsequent 5-year periods, unless the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(d) TERMINATION OF WAIVERS.—The Secretary may terminate a waiver granted under this section at any time if the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(e) REPORTS.—

"(1) IN GENERAL.—The State shall, through an independent entity, evaluate the programs operated under a waiver granted under this section and submit interim and final reports to the Secretary at such times and containing such information as the Secretary shall require.

"(2) REPORT TO CONGRESS.—Not later than 60 days after the receipt of a final report by the State regarding a waiver granted under this section, the Secretary shall submit a report to Congress.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

**SEC. 213. TERMINATION OF DISPROPORTIONATE SHARE PAYMENTS.**

(a) IN GENERAL.—

(1) ELIMINATION OF STATE PLAN REQUIREMENT.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended by striking "which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and".

(2) CONFORMING AMENDMENTS.—(A) Section 1923 of such Act (42 U.S.C. 1396r-4) is repealed.

(B) Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended by striking "facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and".

(C) Section 1902(s) of such Act (42 U.S.C. 1396a(s)) is amended by striking ", and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1),".

(D) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by striking "and subsection 1923(f)".

(E) Section 1903(d)(6) of such Act (42 U.S.C. 1396b(d)(6)) is amended—

(i) by striking "(6)(A)" and inserting "(6)",

(ii) by striking "(i)" and "(ii)" and inserting "(A)" and "(B)", respectively, and

(iii) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after October 1, 1996.

**SEC. 214. GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION.**

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION

"SEC. 1933. (a) IN GENERAL.—The Secretary shall provide grants to States for the purpose of conducting State programs under which individuals with incomes below 150 percent of the income official poverty line are provided health insurance coverage, acute medical services, preventive care, and disease prevention services. A State receiving a grant under this section shall conduct a program described in this section in consultation with the Secretary and in any manner determined appropriate by the State which is in accordance with subsection (b).

"(b) REQUIREMENTS ON PROGRAMS.—

"(1) PRIORITY OF BENEFITS.—A State program conducted under this section shall give priority to individuals who—

"(A) are ineligible for benefits under a State plan under title XIX of the Social Security Act,

"(B) are eligible for the tax credit established under section 34A of the Internal Revenue Code of 1986, and

"(C) have unreimbursed expenses for health insurance coverage and medical care—

"(i) exceeding 5 percent of the individual's adjusted gross income, and

"(ii) not otherwise taken into account in determining the credit under section 34A of the Internal Revenue Code of 1986 for such individual.

"(2) SERVICES.—

"(A) MANDATORY.—A State program conducted under this section shall provide financial assistance as determined by the State for purchasing health insurance coverage

and paying medical bills to individuals described in paragraph (1).

"(B) OPTIONAL.— A State program conducted under this section may provide—

"(i) medical services directly to eligible individuals,

"(ii) primary and preventive care services to underserved populations,

"(iii) funding for community and migrant health centers,

"(iv) delivery of outpatient primary and preventive health services,

"(v) improvements to the availability and quality of emergency medical services and trauma care,

"(vi) transportation of victims of medical emergencies, including air transportation for victims of medical emergencies in rural areas, and

"(vii) telecommunications systems between rural medical facilities and other medical facilities which have expertise in certain areas or equipment that can be utilized by rural facilities through such systems.

"(c) FEDERAL FUNDS AVAILABLE FOR GRANTS.—

"(1) IN GENERAL.—The total amount of Federal funds available under this title for grants to States under this section shall be—

"(A) $14,200,000,000 for fiscal year 1997,

"(B) $15,800,000,000 for fiscal year 1998,

"(C) $17,400,000,000 for fiscal year 1999,

"(D) $20,000,000,000 for fiscal year 2000, and

"(E) for each fiscal year thereafter, the amount for the preceding fiscal year increased by 7.5 percent of such amount.

"(2) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(A) IN GENERAL.—The Secretary shall pay to each State conducting a program under this section for a fiscal year an amount equal to the State's percentage (as determined under subparagraph (B)) of the total amount available for grants under this section as provided in paragraph (1).

"(B) STATE PERCENTAGE.—

"(i) IN GENERAL.—A State's percentage determined under this subparagraph for a fiscal year is a percentage equal to the quotient of—

"(I) the number of individuals in the State's needy population (as defined in clause (ii)) for such fiscal year, divided by

"(II) the total number of individuals in the needy populations of all States for the fiscal year.

"(ii) STATE NEEDY POPULATION.—The term "State's needy population" means, with respect to a fiscal year, the number of individuals equal to the product of—

"(I) the average number of individuals in the State with incomes below the income official poverty line during the 3 preceding fiscal years (as determined by the Secretary), and

(II) the State's Federal percentage (as determined under clause (iii)).

"(iii) STATE FEDERAL PERCENTAGE.—

"(I) IN GENERAL.—A State's Federal percentage for a fiscal year is the greater of—

"(aa) 1 minus the percentage determined under subclause (II), or

"(bb) 40 percent.

"(II) PERCENTAGE DETERMINED.—The percentage determined under this subclause is the product of—

"(aa) .40, and

"(bb) the product of the amount determined under subclause (III) multiplied by itself.

"(III) AMOUNT DETERMINED.—The amount determined under this subclause is the quotient of—

"(aa) the State's share of total taxable resources, divided by

"(bb) the State's share of need.

"(d) STATE EXPENDITURES.—

"(1) IN GENERAL.—For a fiscal year, a State shall expend for purposes of conducting the State program described in subsection (a) an amount at least equal to—

"(A) for fiscal year 1997, the base year DSH payment for the State (as defined in paragraph (2)) updated by the percentage change in the consumer price index between fiscal year 1996 and fiscal year 1995 (as determined by the Secretary of Commerce), and

"(B) for fiscal year 1998 and each succeeding fiscal year, an amount equal to the amount determined under this clause for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(2) BASE YEAR DSH PAYMENT.—For purposes of paragraph (1), the term 'base year DSH payment' means the amount of expenditures made by the State in fiscal year 1996 in the form of payment adjustments in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(e) OTHER DEFINITIONS.—

"(1) INCOME OFFICIAL POVERTY LINE.—For purposes of this section, the term 'income official poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(2) STATE'S SHARE OF TOTAL TAXABLE RESOURCES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of total taxable resources for the State (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years), divided by

"(ii) the average of the total taxable resources for all States (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years).

"(B) SPECIAL RULE FOR THE DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), with respect to the District of Columbia, the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of the total personal income in such District for the 3 preceding calendar years (as determined by the Secretary of Commerce), divided by

"(ii) the average of the total personal income for all States for the 3 preceding calendar years (as determined by the Secretary of Commerce).

"(3) STATE'S SHARE OF NEED.—The term 'State's share of need' for a fiscal year means the quotient of—

"(A) the average number of individuals in the State with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary), divided by

"(B) the average number of individuals in all States with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1996.

## TITLE III—HEALTH CARE LIABILITY REFORM

### SEC. 301. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform Act of 1993".

### SEC. 302. DEFINITIONS.

For purposes of this title the term—

(1) "approved by the Food and Drug Administration" means, with respect to a health care product, that the health care product—

(A) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug or device was approved by the Food and Drug Administration; or

(B) is generally recognized as safe and effective under conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations;

(2) "arbitration" means a dispute resolution process in which the parties submit the dispute outside of a Federal or State civil justice system for resolution by a person or panel of persons;

(3) "economic losses" means losses for hospital and medical expenses, lost wages, lost employment, and other pecuniary losses;

(4) "health care malpractice action" means a civil action alleging a health care malpractice claim against a health care provider or health care professional;

(5) "health care malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services based on negligence or gross negligence, breach of express or implied warranty or contract, or failure to discharge a duty to warn or instruct to obtain consent;

(6) "health care product" means a drug, as defined under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device, as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), or any combination thereof;

(7) "health care product liability action" means a civil action alleging a health care product liability claim against a manufacturer or seller of a health care product or against a health care provider or health care professional;

(8) "health care product liability claim" means any claim relating to harm alleged to have been caused by a health care product;

(9) "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State, including a physician, nurse, chiropractor, nurse midwife, physical therapist, social worker, or physician assistant;

(10) "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State;

(11) "injury" means any injury, illness, disease, or other harm that is the subject of a health care malpractice claim; and

(12) "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental

anguish, disfigurement, loss of enjoyment of life, and other nonpecuniary losses.

**SEC. 303. HEALTH CARE MALPRACTICE.**

(a) APPLICATION.—The provisions of this section shall apply to any health care malpractice action filed in any Federal or State court and any health care malpractice claim resolved through arbitration.

(b) PAYMENTS.—No person may be required to pay more than $100,000 in a single payment in damages for expenses to be incurred in the future, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based on projections of when expenses are likely to be incurred.

(c) DAMAGES.—(1) The total amount of damages received by an individual shall be reduced, in accordance with paragraph (2), by any other payment which has been made or which will be made to such individual to compensate such individual for an injury, including payments under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other source of payment intended to compensate such individual for such injury.

(2) The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described under subparagraph (A).

(d) STATUTE OF LIMITATIONS.—(1) Except as provided under paragraph (2), no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the expiration of the 4-year period that begins on the date the alleged injury occurred, whichever is later.

(2) In the case of an alleged injury suffered by a minor who has not attained 6 years of age, no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the date on which the minor attains 10 years of age, whichever is later.

(e) ATTORNEYS' FEES.—With respect to any health care malpractice action or any health care malpractice claim, attorneys' fees may not exceed—

(1) 25 percent of the first $150,000 of any award or settlement under such action or claim; and

(2) 15 percent of any additional amounts in excess of $150,000.

**SEC. 304. HEALTH CARE PRODUCT LIABILITY OF MANUFACTURER OR SELLER.**

(a) NONAPPLICATION OF STRICT LIABILITY.—A manufacturer or seller of a health care product approved by the Food and Drug Administration shall not be strictly liable for any injury alleged to have resulted from—

(1) a defect in the design of the health care product; or

(2) a failure to warn or instruct regarding a risk posed by the health care product that was neither known nor reasonably knowable at the time the health care product left the control of the manufacturer or seller.

(b) DUTY TO WARN.—(1) A manufacturer or seller of a health care product that is to be prescribed by, or used at the direction of, a health care professional shall not be liable for harm allegedly caused by a failure to warn or instruct the ultimate user or recipient of the product about a risk if the manufacturer or seller provided adequate warning or instruction to the user's or recipient's health care professional.

(2) This subsection shall not apply to any health care product to which the Food and Drug Administration specifically provides that a warning or instruction regarding such product shall be given by the manufacturer or seller directly to the ultimate user or recipient.

**SEC. 305. GENERAL PROVISIONS RELATING TO HEALTH CARE LIABILITY.**

(a) LIMITATION ON NONECONOMIC DAMAGES.—(1) Except as provided under paragraph (2), the total amount of damages which may be awarded to an individual and the family members of such individual for noneconomic losses resulting from an injury which is the subject of a health care malpractice claim or a health care product liability claim may not exceed $250,000, regardless of the number of defendants against whom the claim is brought, the number of claims brought with respect to the injury, or the number of actions brought with respect to the injury.

(2)(A) In any jury trial, the jury shall not be informed of the limitation established under paragraph (1). If the jury awards an amount for noneconomic damages that exceeds $250,000, the court shall reduce the award to $250,000 unless the court finds that special circumstances (such as egregious injury) would make such reduction unjust.

(B) In any case in which the court finds a reduction under subparagraph (A) would be unjust, the court may—

(i) decline to reduce such award; or

(ii) reduce such award by a lesser amount than provided for under subparagraph (A).

(b) SEVERAL LIABILITY FOR NONECONOMIC LOSS.—(1) In any health care malpractice action or health care product liability action the liability of each defendant for noneconomic loss and for punitive damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss and punitive damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under paragraph (2). A separate judgment shall be rendered against such defendant for that amount.

(2) For purposes of this subsection, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

**SEC. 306. PUNITIVE DAMAGES.**

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable law, be awarded against a defendant in a health care malpractice action or a health care product liability action only if the claimant establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting conscious, flagrant indifference to the health of the claimant or to the health of those persons who might be harmed by the health care product.

(b) DETERMINATION OF AMOUNT.—The amount of any punitive damages award shall be determined (subject to appellate review as permitted by applicable law) by the trial judge.

(c) LIMITATION CONCERNING CERTAIN HEALTH CARE PRODUCTS.—Punitive damages shall not be awarded against a manufacturer or seller of a health care product approved by the Food and Drug Administration where that health care product caused the claimant's harm.

**SEC. 307. EXCEPTIONS.**

The provisions of sections 304(a) and 306(c) shall not apply in any case in which—

(1) the defendant, before or after premarket approval of a drug or device, withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government required information that is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(2) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device.

**SEC. 308. RULES OF CONSTRUCTION.**

Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the grounds of inconvenient forum;

(6) restrict or limit the preemptive effect of any other Federal law; or

(7) create any cause of action under Federal law.

## TITLE IV—ADMINISTRATIVE COST SAVINGS

### Subtitle A—Standardization of Claims Processing

**SEC. 401. ADOPTION OF DATA ELEMENTS, UNIFORM CLAIMS, AND UNIFORM ELECTRONIC TRANSMISSION STANDARDS.**

(a) IN GENERAL.—The Secretary shall adopt standards relating to each of the following:

(1) Data elements for use in paper and electronic claims processing under health insurance plans, as well as for use in utilization review and management of care (including data fields, formats, and medical nomenclature, and including plan benefit and insurance information).

(2) Uniform claims forms (including uniform procedure and billing codes for uses with such forms and including information on other health insurance plans that may be liable for benefits).

(3) Uniform electronic transmission of the data elements (for purposes of billing and utilization review).

Standards under paragraph (3) relating to electronic transmission of data elements for claims for services shall supersede (to the extent specified in such standards) the standards adopted under paragraph (2) relating to the submission of paper claims for such services. Standards under paragraph (3) shall include protections to assure the confidentiality of patient-specific information and to protect against the unauthorized use and disclosure of information.

(b) USE OF TASK FORCES.—In adopting standards under this section—

(1) the Secretary shall take into account the recommendations of current task forces, including at least the Workgroup on Electronic Data Interchange, National Uniform

Billing Committee, the Uniform Claim Task Force, and the Computer-based Patient Record Institute;

(2) the Secretary shall consult with the National Association of Insurance Commissioners (and, with respect to standards under subsection (a)(3), the American National Standards Institute); and

(3) the Secretary shall, to the maximum extent practicable, seek to make the standards consistent with any uniform clinical data sets which have been adopted and are widely recognized.

(c) DEADLINES FOR PROMULGATION.—The Secretary shall promulgate the standards under—

(1) subsection (a)(1) relating to claims processing data, by not later than 12 months after the date of the enactment of this Act;

(2) subsection (a)(2) (relating to uniform claims forms) by not later than 12 months after the date of the enactment of this Act; and

(3)(A) subsection (a)(3) relating to transmission of information concerning hospital and physicians services, by not later than 24 months after the date of the enactment of this Act, and

(B) subsection (a)(3) relating to transmission of information on other services, by such later date as the Secretary may determine it to be feasible.

(d) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress recommendations regarding restructuring the medicare peer review quality assurance program given the availability of hospital data in electronic form.

**SEC. 402. APPLICATION OF STANDARDS.**

(a) IN GENERAL.—If the Secretary determines, at the end of the 2-year period beginning on the date that standards are adopted under section 401 with respect to classes of services, that a significant number of claims for benefits for such services under health insurance plans are not being submitted in accordance with such standards, the Secretary may require, after notice in the Federal Register of not less than 6 months, that all providers of such services must submit claims to health insurance plans in accordance with such standards. The Secretary may waive the application of such a requirement in such cases as the Secretary finds that the imposition of the requirement would not be economically practicable.

(b) SIGNIFICANT NUMBER.—The Secretary shall make an affirmative determination described in subsection (a) for a class of services only if the Secretary finds that there would be a significant, measurable additional gain in efficiencies in the health care system that would be obtained by imposing the requirement described in such paragraph with respect to such services.

(c) APPLICATION OF REQUIREMENT.—

(1) IN GENERAL.—If the Secretary imposes the requirement under subsection (a)—

(A) in the case of a requirement that imposes the standards relating to electronic transmission of claims for a class of services, each health care provider that furnishes such services for which benefits are payable under a health insurance plan shall transmit electronically and directly to the plan on behalf of the beneficiary involved a claim for such services in accordance with such standards;

(B) any health insurance plan may reject any claim subject to the standards adopted under section 401 but which is not submitted in accordance with such standards;

(C) it is unlawful for a health insurance plan (i) to reject any such claim on the basis of the form in which it is submitted if it is submitted in accordance with such standards or (ii) to require, for the purpose of utilization review or as a condition of providing benefits under the plan, a provider to transmit medical data elements that are inconsistent with the standards established under section 401(a)(1); and

(D) the Secretary may impose a civil money penalty on any provider that knowingly and repeatedly submits claims in violation of such standards or on any health insurance plan (other than a health insurance plan described in paragraph (2)) that knowingly and repeatedly rejects claims in violation of subparagraph (B), in an amount not to exceed $100 for each such claim.

The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under subparagraph (D) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan—

(A) that is subject to regulation by a State, and

(B) with respect to which the Secretary finds that—

(i) the State provides for application of the standards established under section 401, and

(ii) the State regulatory program provides for the appropriate and effective enforcement of such standards.

(d) TREATMENT OF REJECTIONS.—If a plan rejects a claim pursuant to subsection (c)(1), the plan shall permit the person submitting the claim a reasonable opportunity to resubmit the claim on a form or in an electronic manner that meets the requirements for acceptance of the claim under such subsection.

**SEC. 403. PERIODIC REVIEW AND REVISION OF STANDARDS.**

(a) IN GENERAL.—The Secretary shall—

(1) provide for the ongoing receipt and review of comments and suggestions for changes in the standards adopted and promulgated under section 401;

(2) establish a schedule for the periodic review of such standards; and

(3) based upon such comments, suggestions, and review, revise such standards and promulgate such revisions.

(b) APPLICATION OF REVISED STANDARDS.—If the Secretary under subsection (a) revises the standards described in 401, then, in the case of any claim for benefits submitted under a health insurance plan more than the minimum period (of not less than 6 months specified by the Secretary) after the date the revision is promulgated under subsection (a)(3), such standards shall apply under section 402 instead of the standards previously promulgated.

**SEC. 404. HEALTH INSURANCE PLAN DEFINED.**

In this title, the term "health insurance plan" has the meaning given such term in section 111(b) and includes—

(1) the medicare program (under title XVIII of the Social Security Act) and medicare supplemental health insurance, and

(2) a State medicaid plan (approved under title XIX of such Act).

**Subtitle B—Electronic Medical Data Standards**

**SEC. 411. MEDICAL DATA STANDARDS FOR HOSPITALS AND OTHER PROVIDERS.**

(a) PROMULGATION OF HOSPITAL DATA STANDARDS.—

(1) IN GENERAL.—Between July 1, 1995, and January 1, 1996, the Secretary shall promulgate standards described in subsection (b) for hospitals concerning electronic medical data.

(2) REVISION.—The Secretary may from time to time revise the standards promulgated under this subsection.

(b) CONTENTS OF DATA STANDARDS.—The standards promulgated under subsection (a) shall include at least the following:

(1) A definition of a standard set of data elements for use by utilization and quality control peer review organizations.

(2) A definition of the set of comprehensive data elements, which set shall include for hospitals the standard set of data elements defined under paragraph (1).

(3) Standards for an electronic patient care information system with data obtained at the point of care, including standards to protect against the unauthorized use and disclosure of information.

(4) A specification of, and manner of presentation of, the individual data elements of the sets and system under this subsection.

(5) Standards concerning the transmission of electronic medical data.

(6) Standards relating to confidentiality of patient-specific information.

The standards under this section shall be consistent with standards for data elements established under section 401.

(c) OPTIONAL DATA STANDARDS FOR OTHER PROVIDERS.—

(1) IN GENERAL.—The Secretary may promulgate standards described in paragraph (2) concerning electronic medical data for providers that are not hospitals. The Secretary may from time to time revise the standards promulgated under this subsection.

(2) CONTENTS OF DATA STANDARDS.—The standards promulgated under paragraph (1) for non-hospital providers may include standards comparable to the standards described in paragraphs (2), (4), and (5) of subsection (b) for hospitals.

(d) CONSULTATION.—In promulgating and revising standards under this section, the Secretary shall—

(1) consult with the American National Standards Institute, hospitals, with the advisory commission established under section 415, and with other affected providers, health insurance plans, and other interested parties, and

(2) take into consideration, in developing standards under subsection (b)(1), the data set used by the utilization and quality control peer review program under part B of title XI of the Social Security Act.

**SEC. 412. APPLICATION OF ELECTRONIC DATA STANDARDS TO CERTAIN HOSPITALS.**

(a) MEDICARE REQUIREMENT FOR SHARING OF HOSPITAL INFORMATION.—As of January 1, 1996, subject to paragraph (2), each hospital, as a requirement of each participation agreement under section 1866 of the Social Security Act, shall—

(1) maintain clinical data included in the set of comprehensive data elements under section 411(b)(2) in electronic form on all inpatients,

(2) upon request of the Secretary or of a utilization and quality control peer review organization (with which the Secretary has entered into a contract under part B of title XI of such Act), transmit electronically the data set, and

(3) upon request of the Secretary, or of a fiscal intermediary or carrier, transmit electronically any data (with respect to a claim) from such data set,

in accordance with the standards promulgated under section 411(a).

(b) WAIVER AUTHORITY.—Until January 1, 2000:

(1) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is a small rural hospital, for such period as the hospital demonstrates compliance with such requirements would constitute an undue financial hardship.

(2) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is in the process of developing a system to provide the required data set and executes agreements with its fiscal intermediary and its utilization and quality control peer review organization that the hospital will meet the requirements of subsection (a) by a specified date (not later than January 1, 2000).

(3) The Secretary may waive the application of the requirement of subsection (a)(1) for a hospital that agrees to obtain from its records the data elements that are needed to meet the requirements of paragraphs (2) and (3) of subsection (a) and agrees to subject its data transfer process to a quality assurance program specified by the Secretary.

(c) APPLICATION TO HOSPITALS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall provide that each hospital of the Department of Veterans Affairs shall comply with the requirements of subsection (a) in the same manner as such requirements would apply to the hospital if it were participating in the Medicare program.

(2) WAIVER.—The Secretary of Veterans Affairs may waive the application of such requirements to a hospital in the same manner as the Secretary of Health and Human Services may waive under subsection (b) the application of the requirements of subsection (a).

**SEC. 413. ELECTRONIC TRANSMISSION TO FEDERAL AGENCIES.**

(a) IN GENERAL.—Effective January 1, 2000, if a provider is required under a Federal program to transmit a data element that is subject to a presentation or transmission standard (as defined in subsection (b)), the head of the Federal agency responsible for such program (if not otherwise authorized) is authorized to require the provider to present and transmit the data element electronically in accordance with such a standard.

(b) PRESENTATION OR TRANSMISSION STANDARD DEFINED.—In subsection (a), the term "presentation or transmission standard" means a standard, promulgated under subsection (b) or (c) of section 411, described in paragraph (4) or (5) of section 411(b).

**SEC. 414. LIMITATION ON DATA REQUIREMENTS WHERE STANDARDS IN EFFECT.**

(a) IN GENERAL.—If standards with respect to data elements are promulgated under section 411 with respect to a class of provider, a health insurance plan may not require, for the purpose of utilization review or as a condition of providing benefits under the plan, that a provider in the class—

(1) provide any data element not in the set of comprehensive data elements specified under such standards, or

(2) transmit or present any such data element in a manner inconsistent with the applicable standards for such transmission or presentation.

(b) COMPLIANCE.—

(1) IN GENERAL.—The Secretary may impose a civil money penalty on any health insurance plan (other than a health insurance plan described in paragraph (2)) that fails to comply with subsection (a) in an amount not to exceed $100 for each such failure. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan that is subject to regulation by a State, if the Secretary finds that—

(A) the State provides for application of the requirement of subsection (a), and

(B) the State regulatory program provides for the appropriate and effective enforcement of such requirement with respect to such plans.

**SEC. 415. ADVISORY COMMISSION.**

(a) IN GENERAL.—The Secretary shall establish an advisory commission including hospital executives, hospital data base managers, physicians, health services researchers, and technical experts in collection and use of data and operation of data systems. Such commission shall include, as ex officio members, a representative of the Director of the National Institutes of Health, the Administrator for Health Care Policy and Research, the Secretary of Veterans Affairs, and the Director of the Centers for Disease Control.

(b) FUNCTIONS.—The advisory commission shall monitor and advise the Secretary concerning—

(1) the standards established under this subtitle, and

(2) operational concerns about the implementation of such standards under this subtitle.

(c) STAFF.—From the amounts appropriated under subsection (d), the Secretary shall provide sufficient staff to assist the advisory commission in its activities under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1995 through 2000 to carry out this section.

**Subtitle C—Development and Distribution of Comparative Value Information**

**SEC. 421. STATE COMPARATIVE VALUE INFORMATION PROGRAMS FOR HEALTH CARE PURCHASING.**

(a) PURPOSE.—In order to assure the availability of comparative value information to purchasers of health care in each State, the Secretary shall determine whether each State is developing and implementing a health care value information program that meets the criteria and schedule set forth in subsection (b).

(b) CRITERIA AND SCHEDULE FOR STATE PROGRAMS.—The criteria and schedule for a State health care value information program in this subsection shall be specified by the Secretary as follows:

(1) The State begins promptly after enactment of this Act to develop (directly or through contractual or other arrangements with 1 or more States, coalitions of health insurance purchasers, other entities, or any combination of such arrangements) information systems regarding comparative health values.

(2) The information contained in such systems covers at least the average prices of common health care services (as defined in subsection (d)) and health insurance plans, and, where available, measures of the variability of these prices within a State or other market areas.

(3) The information described in paragraph (2) is made available within the State beginning not later than 1 year after the date of the enactment of this Act, and is revised as frequently as reasonably necessary, but at intervals of no greater than 1 year.

(4) Not later than 6 years after the date of the enactment of this Act the State has developed information systems that provide comparative costs, quality, and outcomes data with respect to health insurance plans and hospitals and made the information broadly available within the relevant market areas.

Nothing in this section shall preclude a State from providing additional information, such as information on prices and benefits of different health insurance plans, available.

(c) GRANTS TO STATES FOR THE DEVELOPMENT OF STATE PROGRAMS.—

(1) GRANT AUTHORITY.—The Secretary may make grants to each State to enable such State to plan the development of its health care value information program and, if necessary, to initiate the implementation of such program. Each State seeking such a grant shall submit an application therefor, containing such information as the Secretary finds necessary to assure that the State is likely to develop and implement a program in accordance with the criteria and schedule in subsection (b).

(2) OFFSET AUTHORITY.—If, at any time within the 3-year period following the receipt by a State of a grant under this subsection, the Secretary is required by section 422 to implement a health care information program in the State, the Secretary may recover the amount of the grant under this subsection by offset against any other amount payable to the State under the Social Security Act. The amount of the offset shall be made available (from the appropriation account with respect to which the offset was taken) to the Secretary to carry out such section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to make grants under this subsection, to remain available until expended.

(d) COMMON HEALTH CARE SERVICES DEFINED.—In this section, the term "common health care services" includes such procedures as the Secretary may specify and any additional health care services which a State may wish to include in its comparative value information program.

(e) STATE DEFINED.—In this title, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

**SEC. 422. FEDERAL IMPLEMENTATION.**

(a) IN GENERAL.—If the Secretary finds, at any time, that a State has failed to develop or to continue to implement a health care value information program in accordance with the criteria and schedule in section 421(b), the Secretary shall take the actions necessary, directly or through grants or contract, to implement a comparable program in the State.

(b) FEES.—Fees may be charged by the Secretary for the information materials provided pursuant to a program under this section. Any amounts so collected shall be deposited in the appropriation account from which the Secretary's costs of providing such materials were met, and shall remain available for such purposes until expended.

**SEC. 423. COMPARATIVE VALUE INFORMATION CONCERNING FEDERAL PROGRAMS.**

(a) DEVELOPMENT.—The head of each Federal agency with responsibility for the provision of health insurance or of health care services to individuals shall promptly develop health care value information relating to each program that such head administers and covering the same types of data that a State program meeting the criteria of section 421(b) would provide.

(b) DISSEMINATION OF INFORMATION.—Such information shall be made generally available to States and to providers and consumers of health care services.

**Subtitle D—Preemption of State Quill Pen Laws**

**SEC. 431. PREEMPTION OF STATE QUILL PEN LAWS.**

(a) IN GENERAL.—Effective January 1, 1996, no effect shall be given to any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic form.

(b) SECRETARIAL AUTHORITY.—The Secretary may issue regulations to carry out subsection (a). Such regulations may provide for such exceptions to subsection (a) as the Secretary determines to be necessary to prevent fraud and abuse, with respect to controlled substances, and in such other cases as the Secretary deems appropriate.

**TITLE V—ANTI-FRAUD**

**Subtitle A—Criminal Prosecution of Health Care Fraud**

**SEC. 501. PENALTIES FOR HEALTH CARE FRAUD.**

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1347. Health care fraud**

"(a) OFFENSE.—Whoever, being a health care provider, knowingly engages in any scheme or artifice to defraud any person in connection with the provision of health care shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

"1347. Health care fraud.".

**SEC. 502. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.**

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

**Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities**

**SEC. 511. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH INSURANCE PLAN.**

(a) CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), in the matter before subparagraph (A), by inserting "or of any health insurance plan," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health insurance plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a health insurance plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health insurance plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health insurance plan" after "or XX".

(b) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH INSURANCE PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health insurance plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health insurance plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health insurance plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health insurance plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health insurance plan,", and

(ii) by striking "State plan," and inserting "State plan or the health insurance plan,".

(2) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a), (b), or (c), any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(3) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(c) HEALTH INSURANCE PLAN DEFINED.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH INSURANCE PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health insurance plan' means a health insurance program other than the medicare program, the medicaid program, or a State health care program.".

(d) CONFORMING AMENDMENT.—Section 1128(b)(8)(B)(ii) of such Act (42 U.S.C. 1320a-7(b)(8)(B)(ii)) is amended by striking "1128A" and inserting "1128A (other than a penalty arising from a health insurance plan, as defined in subsection (i))".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

**TITLE VI—ANTITRUST PROVISIONS**

**SEC. 601. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN COMPETITIVE AND COLLABORATIVE ACTIVITIES.**

(a) EXEMPTION DESCRIBED.—An activity relating to the provision of health care services shall be exempt from the antitrust laws if—

(1) the activity is within one of the categories of safe harbors described in section 602;

(2) the activity is within an additional safe harbor designated by the Attorney General under section 603; or

(3) the activity is specified in and in compliance with the terms of a certificate of review issued by the Attorney General under section 604 and the activity occurs—

(A) while the certificate is in effect, or

(B) in the case of a certificate issued during the 2-year period beginning on the date of the enactment of this Act, at any time on or after the first day of the 2-year period that ends on the date the certificate takes effect.

(b) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(1) IN GENERAL.—If any person brings an action alleging a claim under the antitrust laws and the activity on which the claim is based is found by the court to be exempt from such laws under subsection (a), the court shall, at the conclusion of the action—

(A) award to a substantially prevailing claimant the cost of suit attributable to

such claim, including a reasonable attorney's fee, or

(B) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(2) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to paragraph (1) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

**SEC. 602. SAFE HARBORS.**

The following activities are safe harbors for purposes of section 601(a)(1):

(1) COMBINATIONS WITH MARKET SHARE BELOW THRESHOLD.—Activities relating to health care services of any combination of health care providers if the number of each type or specialty of provider in question does not exceed 20 percent of the total number of such type or specialty of provider in the relevant market area.

(2) ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care provided to patients.

(B) EXCEPTION.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under this paragraph if the activity is conducted for purposes of financial gain.

(3) PARTICIPATION IN SURVEYS.—The participation of a provider of health care services in a written survey of the prices of services, reimbursement levels, or the compensation and benefits of employees and personnel, but only if—

(A) the survey is conducted by a third party, such as a purchaser of health care services, governmental entity, institution of higher education, or trade association;

(B) the information provided by participants in the survey is based on prices charged, reimbursements received, or compensation and benefits paid prior to the third month preceding the month in which the information is provided; and

(C) if the results of the survey are disseminated, the results are aggregated in a manner that ensures that no recipient of the results may identify the prices charged, reimbursement received, or compensation and benefits paid by any particular provider.

(4) JOINT VENTURES FOR HIGH TECHNOLOGY AND COSTLY EQUIPMENT AND SERVICES.—Any activity of a health care cooperative venture relating to the purchase, operation, or marketing of high technology or other expensive medical equipment, or the provision of high cost or complex services, but only if the number of participants in the venture does not exceed the lowest number needed to support the venture. Other providers may be included in the venture, but only if such other providers could not purchase, operate, or market such equipment or provide a competing service either alone or through the formation of a competing venture.

(5) HOSPITAL MERGERS.—Activities relating to a merger of 2 hospitals if, during the 3-year period preceding the merger, one of the hospitals had an average of 150 or fewer operational beds and an average daily inpatient census of less than 50 percent of such beds.

(6) JOINT PURCHASING ARRANGEMENTS.—Any joint purchasing arrangement among health care providers if—

(A) the purchases under the arrangement represent less than 35 percent of the total sales of the product or service purchased in the relevant market; and

(B) the cost of the products and services purchased jointly accounts for less than 20 percent of the total revenues from all products or services sold by each participant in the joint purchasing arrangement.

(7) NEGOTIATIONS.—Activities consisting of good faith negotiations to carry out any activity—

(A) described in this section,

(B) within an additional safe harbor designated by the Attorney General under section 603,

(C) that is the subject of an application for a certificate of review under section 604, or

(D) that is deemed a submission of a notification under section 605(a)(2)(B),

without regard to whether such an activity is carried out.

**SEC. 603. DESIGNATION OF ADDITIONAL SAFE HARBORS.**

(a) IN GENERAL.—

(1) SOLICITATION OF PROPOSALS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall publish a notice in the Federal Register soliciting proposals for additional safe harbors.

(2) REVIEW AND REPORT ON PROPOSED SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall—

(A) review the proposed safe harbors submitted under paragraph (1); and

(B) submit a report to Congress describing the proposals to be included in the publication of additional safe harbors described in paragraph (3) and the proposals that are not to be so included, together with explanations therefore.

(3) PUBLICATION OF ADDITIONAL SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall publish in the Federal Register proposed additional safe harbors for purposes of section 601(a)(2) for providers of health care services. Not later than 180 days after publishing such proposed safe harbors in the Federal Register, the Attorney General shall issue final rules establishing such safe harbors.

(b) CRITERIA FOR SAFE HARBORS.—In establishing safe harbors under subsection (a), the Attorney General shall take into account the following:

(1) The extent to which a competitive or collaborative activity will accomplish any of the following:

(A) An increase in access to health care services.

(B) The enhancement of the quality of health care services.

(C) The establishment of cost efficiencies that will be passed on to consumers, including economies of scale and reduced transaction and administrative costs.

(D) An increase in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(E) An improvement in the utilization of health care resources or the reduction in the inefficient duplication of the use of such resources.

(2) Whether the designation of an activity as a safe harbor under subsection (a) will result in the following outcomes:

(A) Health plans and other health care insurers, consumers of health care services, and health care providers will be better able to negotiate payment and service arrangements which will reduce costs to consumers.

(B) Taking into consideration the characteristics of the particular purchasers and providers involved, competition will not be unduly restricted.

(C) Equally efficient and less restrictive alternatives do not exist to meet the criteria described in paragraph (1).

(D) The activity will not unreasonably foreclose competition by denying competitors a necessary element of competition.

**SEC. 604. CERTIFICATES OF REVIEW.**

(a) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary and the Chair, the Attorney General shall (not later than 180 days after the date of the enactment of this Act) issue certificates of review in accordance with this section for providers of health care services and advise and assist any person with respect to applying for such a certificate of review.

(b) PROCEDURES FOR APPLICATION FOR CERTIFICATE.—

(1) FORM; CONTENT.—To apply for a certificate of review, a person shall submit to the Attorney General a written application which—

(A) specifies the activities relating to the provision of health care services which satisfy the criteria described in section 603(b) and which will be included in the certificate; and

(B) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 607.

(2) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—Within 10 days after an application submitted under paragraph (1) is received by the Attorney General, the Attorney General shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

(3) ESTABLISHMENT OF PROCEDURES FOR ISSUANCE OF CERTIFICATE.—In consultation with the Chair and the Secretary, the Attorney General shall establish procedures to be used in applying for and in determining whether to approve an application for a certificate of review under this title. Under such procedures the Attorney General shall approve an application if the Attorney General determines that the activities to be covered under the certificate will satisfy the criteria described in section 603(b) for additional safe harbors designated under such section and that the benefits of the issuance of the certificate will outweigh any disadvantages that may result from reduced competition.

(4) TIMING FOR DECISION ON APPLICATION.—

(A) IN GENERAL.—Within 90 days after the Attorney General receives an application for a certificate of review, the Attorney General shall determine whether the applicant's health care market activities are in accordance with the procedures described in paragraph (3). If the Attorney General, with the concurrence of the Secretary, determines that such procedures are met, the Attorney

General shall issue to the applicant a certificate of review. The certificate of review shall specify—

(i) the health care market activities to which the certificate applies,

(ii) the person to whom the certificate of review is issued, and

(iii) any terms and conditions the Attorney General or the Secretary deems necessary to assure compliance with the applicable procedures described in paragraph (3).

(B) APPLICATIONS DEEMED APPROVED.—If the Attorney General does not reject an application before the expiration of the 90-day period beginning on the date the Attorney General receives the application, the Attorney General shall be deemed to have approved the application and to have issued a certificate of review relating to the applicant's health care market activities covered under the application.

(5) EXPEDITED ACTION.—If the applicant indicates a special need for prompt disposition, the Attorney General and the Secretary may expedite action on the application, except that no certificate of review may be issued within 30 days of publication of notice in the Federal Register under subsection (b)(2).

(6) ACTIONS UPON DENIAL.—

(A) NOTIFICATION.—If the Attorney General denies in whole or in part an application for a certificate, the Attorney General shall notify the applicant of the Attorney General's determination and the reasons for it.

(B) REQUEST FOR RECONSIDERATION.—An applicant may, within 30 days of receipt of notification that the application has been denied in whole or in part, request the Attorney General to reconsider the determination. The Attorney General, with the concurrence of the Secretary, shall notify the applicant of the determination upon reconsideration within 30 days of receipt of the request.

(C) RETURN OF DOCUMENTS.—If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of documents submitted by the applicant in connection with the application for the certificate, the Attorney General and the Secretary shall return to the applicant, not later than 30 days after receipt of the request, the documents and all copies of the documents available to the Attorney General and the Secretary, except to the extent that the information has been made public under an exception to the rule against public disclosure described in subsection (g)(2)(B).

(7) FRAUDULENT PROCUREMENT.—A certificate of review shall be void ab initio with respect to any health care market activities for which the certificate was procured by fraud.

(c) AMENDMENT AND REVOCATION OF CERTIFICATES.—

(1) NOTIFICATION OF CHANGES.—Any applicant who receives a certificate of review—

(A) shall promptly report to the Attorney General any change relevant to the matters specified in the certificate; and

(B) may submit to the Attorney General an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) AMENDMENT TO CERTIFICATE.—An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

(3) REVOCATION.—

(A) GROUNDS FOR REVOCATION.—In accordance with this paragraph, the Attorney General may revoke in whole or in part a certificate of review issued under this section. The following shall be considered grounds for the revocation of a certificate:

(i) After the expiration of the 2-year period beginning on the date a person's certificate is issued, the activities of the person have not substantially accomplished the purposes for the issuance of the certificate.

(ii) The person has failed to comply with any of the terms or conditions imposed under the certificate by the Attorney General or the Secretary under subsection (b)(4).

(iii) The activities covered under the certificate no longer satisfy the criteria set forth in section 603(b).

(B) REQUEST FOR COMPLIANCE INFORMATION.—If the Attorney General or Secretary has reason to believe that any of the grounds for revocation of a certificate of review described in subparagraph (A) may apply to a person holding the certificate, the Attorney General shall request such information from such person as the Attorney General or the Secretary deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under this paragraph.

(C) PROCEDURES FOR REVOCATION.—If the Attorney General or the Secretary determines that any of the grounds for revocation of a certificate of review described in subparagraph (A) apply to a person holding the certificate, or that such person has failed to comply with a request made under subparagraph (B), the Attorney General shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Attorney General shall revoke the certificate or modify it as the Attorney General or the Secretary deems necessary to cause the certificate to apply only to activities that meet the procedures for the issuance of certificates described in subsection (b)(2).

(D) INVESTIGATION AUTHORITY.—For purposes of carrying out this paragraph, the Attorney General may conduct investigations in the same manner as the Attorney General conducts investigations under section 3 of the Antitrust Civil Process Act, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(d) REVIEW OF DETERMINATIONS.—

(1) AVAILABILITY OF REVIEW FOR CERTAIN ACTIONS.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to paragraph (3), the applicant or certificate holder (as the case may be) may, within 30 days of the denial or revocation, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous based on the preponderance of the evidence.

(2) NO OTHER REVIEW PERMITTED.—Except as provided in paragraph (1), no action by the Attorney General or the Secretary pursuant to this title shall be subject to judicial review.

(3) EFFECT OF REJECTED APPLICATION.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefore shall be admissible in evidence, in any administrative or judicial proceeding, concerning any claim under the antitrust laws.

(e) PUBLICATION OF DECISIONS.—The Attorney General shall publish a notice in the Federal Register on a timely basis of each decision made with respect to an application for a certificate of review under this section or the amendment or revocation of such a certificate, in a manner that protects the confidentiality of any proprietary information relating to the application.

(f) ANNUAL REPORTS.—Every person to whom a certificate of review is issued shall submit to the Attorney General an annual report, in such form and at such time as the Attorney General may require, that contains any necessary updates to the information required under subsection (b) and a description of the activities of the holder under the certificate during the preceding year.

(g) RESTRICTIONS ON DISCLOSURE OF INFORMATION.—

(1) WAIVER OF DISCLOSURE REQUIREMENTS UNDER ADMINISTRATIVE PROCEDURE ACT.—Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) RESTRICTIONS ON DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information disclosed—

(i) upon a request made by the Congress or any committee of the Congress,

(ii) in a judicial or administrative proceeding, subject to appropriate protective orders,

(iii) with the consent of the person who submitted the information,

(iv) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(v) in accordance with any requirement imposed by a statute of the United States, or

(vi) in accordance with any rule or regulation promulgated under subsection (i) permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in clauses (i) through (v).

(3) PROHIBITION AGAINST USE OF INFORMATION TO SUPPORT OR ANSWER CLAIMS UNDER ANTITRUST LAWS.—Any information disclosed in an application for a certificate of review under this section shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a person is entitled to the protections provided by such a certificate.

**SEC. 605. NOTIFICATIONS PROVIDING REDUCTION IN CERTAIN PENALTIES UNDER ANTITRUST LAW FOR HEALTH CARE COOPERATIVE VENTURES.**

(a) NOTIFICATIONS DESCRIBED.—

(1) SUBMISSION OF NOTIFICATION BY VENTURE.—Any party to a health care cooperative venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file with the Attorney General a written notification disclosing—

(A) the identities of the parties to such venture,

(B) the nature and objectives of such venture, and

(C) such additional information as the Attorney General may require by regulation.

(2) ACTIVITIES DEEMED SUBMISSION OF NOTIFICATION.—The following health care cooperative ventures shall be deemed to have filed a written notification with respect to the venture under paragraph (1):

(A) SUBMISSION OF APPLICATION FOR CERTIFICATE OF REVIEW.—Any health care cooperative venture for which an application for a certificate of review is filed with the Attorney General under section 603.

(B) CERTAIN VENTURES.—Any health care cooperative venture meeting the following requirements:

(i) The venture consists of a network of non-institutional providers not greater than—

(I) in the case of a nonexclusive network in which the participating members are permitted to create or join other competing networks, 50 percent of the providers of health care services in the relevant geographic area and 50 percent of the members of the provider specialty group in the relevant market; or

(II) in the case of an exclusive network in which the participating members are not permitted to create or join other competing networks, 35 percent of the providers of health care services in the relevant geographic area and 35 percent of the members of the provider specialty group in the relevant market.

(ii) Each member of the venture assumes substantial financial risk for the operation of the venture through risk-sharing arrangements, including (but not limited to)—

(I) the acceptance of capitation contracts;

(II) the acceptance of contracts with fee withholding mechanisms relating to the ability to meet established goals for utilization review and management; and

(III) the holding by members of significant ownership or equity interests in the venture, where the capital contributed by the members is used to fund the operational costs of the venture such as administration, marketing, and computer-operated medical information, if the venture develops and operates comprehensive programs for utilization management and quality assurance that include controls over the use of institutional, specialized, and ancillary medical services.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—

(A) REQUEST OF ATTORNEY GENERAL.—At any time after receiving a notification filed under paragraph (1), the Attorney General may require the submission of additional information or documentary material relevant to the proposed health care cooperative venture.

(B) PARTIES TO VENTURE.—Any party to a health care cooperative venture may submit such additional information on the venture's behalf as may be appropriate to ensure that the venture will receive the protections provided under subsection (b).

(C) REQUIRED SUBMISSION OF INFORMATION ON CHANGES TO VENTURE.—A health care cooperative venture for which a notification is in effect under this section shall submit information on any change in the membership of the venture not later than 90 days after such change occurs.

(4) PUBLICATION OF NOTIFICATION.—

(A) INFORMATION MADE PUBLICLY AVAILABLE.—Not later than 30 days after receiving a notification with respect to a venture under paragraph (1), the Attorney General shall publish in the Federal Register a notice with respect to the venture that identifies the parties to the venture and generally describes the purpose and planned activity of the venture. Prior to its publication, the contents of the notice shall be made available to the parties to the venture.

(B) RESTRICTION ON DISCLOSURE OF OTHER INFORMATION.—All information and documentary material submitted pursuant to this section and all information obtained by the Attorney General in the course of any investigation or case with respect to a potential violation of the antitrust laws by the health care cooperative venture (other than information and material described in subparagraph (A)) shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial proceeding in which such information and material is subject to any protective order.

(5) WITHDRAWAL OF NOTIFICATION.—Any person who files a notification pursuant to this section may withdraw such notification before a publication by the Attorney General pursuant to paragraph (4). Any person who is deemed to have filed a notification under paragraph (2)(A) shall be deemed to have withdrawn the notification if the certificate of review in question is revoked or withdrawn under section 604.

(6) NO JUDICIAL REVIEW PERMITTED.—Any action taken or not taken by the Attorney General with respect to notifications filed pursuant to this subsection shall not be subject to judicial review.

(b) PROTECTIONS FOR VENTURES SUBJECT TO NOTIFICATION.—

(1) IN GENERAL.—

(A) PROTECTIONS DESCRIBED.—The provisions of paragraphs (2), (3), (4), and (5) shall apply with respect to any action under the antitrust laws challenging conduct within the scope of a notification which is in effect pursuant to subsection (a)(1).

(B) TIMING OF PROTECTIONS.—The protections described in this subsection shall apply to the venture that is the subject of a notification under subsection (a)(1) as of the earlier of—

(i) the date of the publication in the Federal Register of the notice published with respect to the notification; or

(ii) if such notice is not published during the period required under subsection (a)(4), the expiration of the 30-day period that begins on the date the Attorney General receives any necessary information required to be submitted under subsection (a)(1) or any additional information required by the Attorney General under subsection (a)(3)(A).

(2) APPLICABILITY OF RULE OF REASON STANDARD.—In any action under the antitrust laws, the conduct of any person which is within the scope of a notification filed under subsection (a) shall not be deemed illegal per se, but shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in relevant markets.

(3) LIMITATION ON RECOVERY TO ACTUAL DAMAGES AND INTEREST.—Notwithstanding section 4 of the Clayton Act, any person who is entitled to recovery under the antitrust laws for conduct that is within the scope of a notification filed under subsection (a) shall recover the actual damages sustained by such person and interest calculated at the rate specified in section 1961 of title 28, United States Code, for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust under the circumstances.

(4) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(A) IN GENERAL.—In any action under the antitrust laws brought against a health care cooperative venture for conduct that is within the scope of a notification filed under subsection (a), the court shall, at the conclusion of the action—

(i) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(ii) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(B) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to subparagraph (A) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

(5) RESTRICTIONS ON ADMISSIBILITY OF INFORMATION.—

(A) IN GENERAL.—Any information disclosed in a notification submitted under subsection (a)(1) and the fact of the publication of a notification by the Attorney General under subsection (a)(4) shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a party to a health care cooperative venture is entitled to the protections described in this subsection.

(B) ACTIONS OF ATTORNEY GENERAL.—No action taken by the Attorney General pursuant to this section shall be admissible into evidence in any judicial or administrative proceeding for the purpose of supporting or answering any claim under the antitrust laws.

**SEC. 606. REVIEW AND REPORTS ON SAFE HARBORS AND CERTIFICATES OF REVIEW.**

(a) IN GENERAL.—The Attorney General (in consultation with the Secretary and the Chair) shall periodically review the safe harbors described in section 602, the additional safe harbors designated under section 603, and the certificates of review issued under section 604, and—

(1) with respect to the safe harbors described in section 602, submit such recommendations to Congress as the Attorney General considers appropriate for modifications of such safe harbors;

(2) with respect to the additional safe harbors under designated under section 603, issue proposed revisions to such activities and publish the revisions in the Federal Register; and

(3) with respect to the certificates of review, submit a report to Congress on the issuance of such certificates, and shall include

in the report a description of the effect of such certificates on increasing access to high quality health care services at reduced costs.

(b) RECOMMENDATIONS FOR LEGISLATION.—The Attorney General shall include in the reports submitted under subsection (a)(3) any recommendations of the Attorney General for legislation to improve the program for the issuance of certificates of review established under this title.

**SEC. 607. RULES, REGULATIONS, AND GUIDELINES.**

(a) SAFE HARBORS, CERTIFICATES, AND NOTIFICATIONS.—The Attorney General, with the concurrence of the Secretary, shall promulgate such rules, regulations, and guidelines as are necessary to carry out sections 602, 603, 604, and 605, including guidelines defining or relating to relevant geographic and product markets for health care services and providers of health care services.

(b) GUIDANCE FOR PROVIDERS.—

(1) IN GENERAL.—To promote greater certainty regarding the application of the antitrust laws to activities in the health care market, the Attorney General, in consultation with the Secretary and the Chair, shall (not later than 1 year after the date of the enactment of this Act), taking into account the criteria used to designate additional safe harbors under section 603 and grant certificates of review under section 604, publish guidelines—

(A) to assist providers of health care services in analyzing whether the activities of such providers may be subject to a safe harbor under sections 602 or 603; and

(B) describing specific types of activities which would meet the requirements for a certificate of review under section 604, and summarizing the factual and legal bases on which the activities would meet the requirements.

(2) PERIODIC UPDATE.—The Attorney General shall periodically update the guidelines published under paragraph (1) as the Attorney General considers appropriate.

(3) WAIVER OF ADMINISTRATIVE PROCEDURE ACT.—Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under paragraph (1).

**SEC. 608. DEFINITIONS.**

In this title, the following definitions shall apply:

(1) The term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) The term "Chair" means the Chair of the Federal Trade Commission.

(3) The term "health insurance plan" has the meaning given such term in section 111(b).

(4) The term "health care cooperative venture" means any activities, including attempts to enter into or perform a contract or agreement, carried out by two or more persons for the purpose of providing health care services.

(5) The term "health care services" means any services for which payment may be made under a health insurance plan, including services related to the delivery or administration of such services.

(6) The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(7) The term "person" includes a State or unit of local government.

(8) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(9) The term "specialty group" means a medical specialty or subspecialty in which a provider of health care services may be licensed to practice by a State (as determined by the Secretary in consultation with the certification boards for such specialties and subspecialties).

(10) The term "standard setting and enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

## TITLE VII—LONG-TERM CARE

**SEC. 701. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS OR 401(k) PLANS FOR LONG-TERM CARE INSURANCE.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

**"SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS AND SECTION 401(k) PLANS FOR LONG-TERM CARE INSURANCE.**

"(a) GENERAL RULE.—The amount includible in the gross income of an individual for the taxable year by reason of qualified distributions during such taxable year shall not exceed the excess of—

"(1) the amount which would (but for this section) be so includible by reason of such distributions, over

"(2) the aggregate premiums paid by such individual during such taxable year for any long-term care insurance contract for the benefit of such individual or the spouse of such individual.

"(b) QUALIFIED DISTRIBUTION.—For purposes of this section, the term 'qualified distribution' means any distribution to an individual from an individual retirement account or a section 401(k) plan if such individual has attained age 59½ on or before the date of the distribution (and, in the case of a distribution used to pay premiums for the benefit of the spouse of such individual, such spouse has attained age 59½ on or before the date of the distribution).

"(c) DEFINITIONS AND SPECIAL RULES RELATING TO LONG-TERM INSURANCE CONTRACTS.—

"(1) LONG-TERM CARE INSURANCE CONTRACT.—

"(A) IN GENERAL.—For purposes of this section, the term 'long-term care insurance contract' means any insurance contract issued if—

"(i) the only insurance protection provided under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(ii) the maximum benefit under the policy for expenses incurred for any day does not exceed $200,

"(iii) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(iv) such contract is guaranteed renewable,

"(v) such contract does not have any cash surrender value, and

"(vi) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(B) SPECIAL RULES.—

"(i) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be treated as described in subparagraph (A)(i) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(ii) CONTRACT MAY COVER MEDICARE REIMBURSABLE EXPENSES WHERE MEDICARE IS SECONDARY PAYOR.—Subparagraph (A)(iii) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(iii) REFUNDS OF PREMIUMS.—Subparagraph (A)(vi) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(2) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, and rehabilitative services, and maintenance or personal care services, which—

"(i) are required by a chronically ill individual in a qualified facility, and

"(ii) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(B) CHRONICALLY ILL INDIVIDUAL.—

"(i) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in clause (ii)) for a period of at least 90 days due to a loss of functional capacity, or having a similar level of disability (as determined by the Secretary in consultation with the Secretary of Health and Human Services), or

"(II) having a similar level of disability due to cognitive impairment.

"(ii) ACTIVITIES OF DAILY LIVING.—For purposes of clause (i), each of the following is an activity of daily living:

"(I) MOBILITY.—The process of walking or wheeling on a level surface which may include the use of an assistive device such as a cane, walker, wheelchair, or brace.

"(II) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(III) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and

bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(IV) TRANSFER.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(V) EATING.—The process of getting food from a plate or its equivalent into the mouth.

"(C) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(i) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(I) which is licensed under State law, or

"(II) which is a certified facility for purposes of title XVIII or XIX of the Social Security Act, or

"(ii) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in clause (i).

"(D) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in subparagraph (B)(ii).

"(E) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(3) INFLATION ADJUSTMENT OF $200 BENEFIT LIMIT.—

"(A) IN GENERAL.—In the case of a calendar year after 1995, the $200 amount contained in paragraph (1)(A)(ii) shall be increased for such calendar year by the medical care cost adjustment for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(B) MEDICAL CARE COST ADJUSTMENT.—For purposes of subparagraph (A), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(i) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(ii) such component for August of 1994."

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) INDIVIDUAL RETIREMENT ACCOUNT.—The term 'individual retirement account' has the meaning given such term by section 408(a).

"(2) SECTION 401(k) PLAN.—The term 'section 401(k) plan' means any employer plan which meets the requirements of section 401(a) and which includes a qualified cash or deferred arrangement (as defined in section 401(k)).

"(e) SPECIAL RULES FOR SECTION 401(k) PLANS.—

"(1) WITHDRAWALS CANNOT EXCEED ELECTIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.—This section shall not apply to any distribution from a section 401(k) plan to the extent the aggregate amount of such distributions for the use described in subsection (a) exceeds the aggregate employer contributions made pursuant to the employee's election under section 401(k)(2).

"(2) WITHDRAWALS NOT TO CAUSE DISQUALIFICATION.—A plan shall not be treated as failing to satisfy the requirements of section 401, and an arrangement shall not be treated as failing to be a qualified cash or deferred arrangement (as defined in section 401(k)(2)), merely because under the plan or arrangement distributions are permitted which are excludable from gross income by reason of this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k) of such Code is amended by adding at the end the following new paragraph:

"(11) CROSS REFERENCE.—

**"For provision permitting tax-free withdrawals for payment of long-term care premiums, see section 137."**

(2) Section 408(d) of such Code is amended by adding at the end the following new paragraph:

"(8) CROSS REFERENCE.—

**"For provision permitting tax-free withdrawals from individual retirement accounts for payment of long-term care premiums, see section 137."**

(3) The table of sections for such part III is amended by striking the last item and inserting the following new items:

"Sec. 137. Distributions from individual retirement accounts and section 401(k) plans for long-term care insurance.

"Sec. 138. Cross references to other Acts."

**SEC. 702. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.**

Subsection (a) of section 1035 of the Internal Revenue Code of 1986 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a long-term care insurance contract (as defined in section 137(c)(1))."

**SEC. 703. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.**

Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured—

"(A) who is a terminally ill individual, or

"(B) who is a chronically ill individual (as defined in section 137(c)(2)(B)) who is confined to a qualified facility (as defined in section 137(c)(2)(C)(i)),

shall be treated as an amount paid by reason of the death of such insured.

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less.

"(3) PHYSICIAN.—For purposes of this subsection, the term 'physician' has the meaning given to such term by section 137(c)(2)(E)."

**SEC. 704. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1994.

CONSUMER CHOICE HEALTH SECURITY ACT

WHAT IT DOES

The Consumer Choice Plan:

Provides the security of universal health care coverage for all Americans guaranteeing them access to insurance that is portable, and available regardless of pre-existing conditions. It would take effect on January 1, 1997.

Provides individuals and families with a maximum choice of health insurance plans with a wide variety of benefits and costs, including the ability to keep the employer-sponsored benefits they have now. That's more choice than most Americans have now.

Individuals and families are provided with the resources to purchase the health insurance plan that best fit their needs with tax credits in place of the current employee tax exclusion for health care expenses. People whose health expenses consume a larger percentage of their incomes would get a bigger tax credit.

Controls rising health care costs by empowering consumers with choice and individual responsibility and infusing real competition between insurance companies for the consumer's health care dollar.

Further reduces rising health care expenses with real reform of medical malpractice laws, including capping awards for noneconomic damages.

Creates Medical Savings Accounts, or MSA's which can be used to pay medical bills or to pay for extra benefits.

Modeled after the 33-year-old Federal Employee Health Benefit Program (FEHBP), giving consumer the same option of choice now enjoyed by U.S. Senators and Representatives. The FEHBP's annual cost increases have averaged a third less than other private health insurance programs.

WHAT IT DOES NOT DO

The plan has no new, job-killing mandates on employers to provide and pay for health insurance for their employees. Employers must only give their employees the option of retaining their current benefits, or "cashing out" their benefits and joining another plan.

The plan requires no new taxes.

The Consumer Choice and Health Security Act does not wipe out existing health insurance policies, unlike the Clinton plan, which would outlaw nearly every health insurance plan now in existence. Under the Consumer Choice Act, people who are happy with their employer-sponsored coverage can keep it.

The plan places no price controls or "premium caps" on insurance plans that could reduce the quality of coverage and even result in the rationing of health care.

The plan creates no new national health board or government bureaucries are created.

There is no government coercion to purchase benefits now wanted or needed, beyond a minimum catastrophic insurance requirement.

HOW IT WORKS

*Insurance Reform to Guarantee Access*

The Consumer Choice and Health Security Act provides for guaranteed issue of health insurance policies. Insurers could not exclude coverage of any preexisting medical condition of any applicant who switches from one insurance plan to another or of any currently uninsured person who buys insurance.

Insurers cannot cancel or refuse to renew coverage of a health insurance policy except for non-payment of premiums or fraud or misrepresentation. Insurers could not offer bonuses to brokers for selling insurance to

"healthy" people or avoiding the sale of policies to people with preexisting conditions, or engaging in any other discriminatory sales practices.

Health insurance underwriting would be limited, allowing insurers to vary premiums only on the basis of age, sex and geography. However, because of the importance of prevention and healthy lifestyles, the legislation would allow insurers to give incentive discounts to promote healthy behavior, prevent or delay the onset of illness, or provide for screening or early detection of illness.

Certain state laws pertaining to mandated benefits and services, anti-managed care laws, and mandated cost-sharing would be preempted.

*Tax Credits*

Individual tax credits would replace the current tax exclusion for company sponsored health plans.

Tax credits which would become available on January 1, 1997, would be structured to give all Americans a basic level of tax relief on all of their health expenses, with greater tax relief targeted to those individuals and families who, because of illness or below average incomes, face proportionately higher health expense relative to their income. The credits would be structured as follows:

| Health insurance premiums and unreimbursed medical expenses as a percent of gross income | Percent reimbursed |
|---|---|
| Below 10 percent | 25 |
| 10 to 20 percent | 50 |
| 20 percent or more | 75 |

At a minimum, for every $100 which is spent on health insurance premiums, or contributed to a Medical Savings Account, or spent on any out-of-pocket medical expenses, the individual or family would pay $25 less in taxes. The greater the ratio of health costs to income, the greater the tax benefits. Low-wage persons with higher percentage health costs would receive greater benefits. The tax credit would be as much as $75 per $100 spent on health care, and would be refundable as explained below.

The credits are refundable, meaning that if the value of the credit is more than an individual's or family's tax liability, the government would pay the difference. Much like the treatment of the Earned Income Tax Credit (EITC), employers would reduce their tax liability and provide the tax credit as additional income in the employees' paycheck, so they could purchase insurance.

*Family Security Benefit Requirements*

Society should not have to pay the price for irresponsible individuals who refuse to purchase insurance and then expect us to pick up the tab when they become seriously ill or injured. Every individual and family would be required to have minimum health insurance coverage to cover medically necessary "acute medical care," including: Physician services: inpatient, outpatient, and emergency services and appropriate alternatives to hospitalization; inpatient and outpatient prescription drugs; and, a maximum deductible amount of $1,000 for an individual and $2,000 for a family and an out-of-pocket limit of $5,000. These amounts would be indexed to inflation in future years.

For Medical Savings Accounts, or MSAs, the Consumer Choice plan would provide the same basic 25% tax credit for deposits. Each household would be permitted to have one MSA and to make an annual deposit no greater than the sum of $3,000 plus $500 for each dependent. The funds in an MSA could be used to pay medical bills not covered by their insurance plans, and to pay health insurance premiums.

Transitional Rules: In order to provide individuals and families with secure, portable benefits, insurers and employers who currently provide health insurance coverage would be required to provide policyholders with the option of converting their existing coverage to an individual or family plan. Employers would also be required to add the value of the coverage they now offer to their workers' wages. Thus, workers could take their coverage with them when they changed jobs or could use the money to buy a different plan that better suited their needs.

*Employer Provisions*

Individuals and families could still purchase health insurance through their employers. This would not be their only option, since they would be able to receive the same tax relief if they purchased coverage on their own or through other groups such as unions, churches, farm bureaus, business coalitions, professional associations, or through some other group—similar to the choices that more than 10 million Federal employees, retirees and their families have today.

To ensure that individuals and families are able to make regular premium payments on their health insurance, employers would be responsible for withholding premiums from their employees' paychecks and sending these premiums to the employees' chosen insurer. Employers would also be responsible for adjusting their workers' tax withholding to reflect the new tax credits. Thus, taxpayers would not need to wait until they filed their tax returns to claim back the new tax credits.

Individuals who fail to enroll in private health insurance plans would be ineligible to claim the personal exemption on their federal income taxes. Employers would adjust their withholding to reflect this increased income tax liability.

*Financing the Consumer Choice Plan*

Because the Consumer Choice tax credit is more generous than the tax deductions and exclusions that it would replace, it will result in a net revenue loss to the federal government of $133 billion between 1997 and 1999. To offset this revenue loss, the bill calls for savings in the Medicare and Medicaid programs of $139 billion over five years.

Growth in federal Medicaid payments to states for acute care will be capped at 20 percent above the fiscal year (FY) 1993 level in FY 1995. In subsequent years, federal Medicaid acute care payments to states would grow at 2.5 percent above the consumer price index. This will produce a five-year savings of $72 billion.

Medicare savings will be achieved by eliminating payments to "disproportionate share" hospitals, reducing payments to hospitals for indirect medical education costs, continuing the transition to a prospective payment system (PPS) for outpatient services, and by updating PPS payments on January 1 of each year, rather than on October 1. Further savings would be achieved by placing a 20-percent coinsurance requirement on laboratory and home health services. These changes will save the Medicare program $67 billion over five years.

COMPARISON OF SAVINGS ACHIEVED: THE PRESIDENT'S HEALTH PLAN AND THE CONSUMER CHOICE PLAN

[In billions of dollars]

| Program | Consumer choice | President |
|---|---|---|
| Medicare | 67 | 152 |
| Medicaid | 72 | 225 |

*Cutting Costs through Malpractice, Paperwork Reforms*

The Consumer Choice plan would place a $250,000 limit on noneconomic damages, provide for periodic payment of malpractice awards that exceed $100,000, limit the liability of a defendant for noneconomic and punitive damages to their percentage of fault, as determined by the trier of fact and place caps on attorney fees. It would also provide for offsets from collateral sources and would set forth rules for any health care malpractice claims filed in state or federal court or resolved through arbitration.

The Secretary of Health and Human Services would have the power to require all health care providers to submit claims to health insurance companies in accordance with standards developed by the Secretary, if providers are not voluntarily complying with the standards. The Secretary is also directed to adopt standards relating to data elements for use in paper- and electronic-claims processing of health insurance claims, uniform claims forms and uniform electronic transmission of data.

*Helping the Disadvantaged*

The Medicaid Disproportionate Share program—now used to reimburse providers to help defray the cost of uncompensated care—would be converted into grants to states for health insurance coverage, health promotion and disease prevention. The program would target assistance to individuals who are not eligible for Medicaid, who have incomes less than 150 percent of poverty, and whose unreimbursed payments for health insurance premiums and medical care, net of federal tax credits, exceed 5 percent of adjusted gross income.

*Consumer Protections*

The Federal government will continue to police insurance programs to protect consumers from being defrauded. Federal criminal penalties are established against health care providers and insurers who knowingly defraud persons in connection with a health care transaction.

*Anti-Trust Provisions*

The Attorney General, after consultation with the Secretary of Health and Human Services, the Director of the Office of Management and Budget, and a representative of the Federal Trade Commission, is required to promulgate guidelines under which a health care joint venture may submit an application requesting an exemption from antitrust laws.

The Attorney General is directed to issue Health Care Certificates of Public Advantage, within one year of the Consumer Choice plan's enactment, to eligible health care joint ventures. The Attorney General is required to issue such certificates to a health care joint venture upon a finding that (1) the benefits that are likely to result from such venture outweigh the reduction in competition that is likely to result; and (2) such reduction in competition is reasonably necessary to obtain such benefits.

• Mr. MACK. Mr. President, on rare occasion in the course of our public service each of us has the privilege of contributing to a solution that will make America a significantly better place for our families and future generations. Today is a high point for me as I join with Senator NICKLES and 22 of my colleagues in proudly introducing the Consumer Choice Health Security Act of 1993. I firmly believe we have

brought before the Senate a creative and comprehensive health care reform plan for all Americans.

It offers effective solutions to the problems we all agree must be addressed such as appropriate access to health care for all Americans, elimination of preexisting condition exclusions and portability of insurance policies. Yet, it spares us the disastrous effects of an exploding bureaucracy that the President's plan would cause.

Mr. President, the issue isn't whether our health care system should be reformed, but how to do it. Reform should give consumers more choice and more control over health care dollars. President Clinton wants to reform our health care system through an explosion of government. That's wrong. We strongly believe health care should be reformed through an explosion of consumer choice and competition.

The Consumer Choice Health Security Act changes the current system of providing tax relief largely for employer-based insurance and replaces it with a refundable tax credit, which provides direct tax relief to individuals and families regardless of where they acquire their health insurance—from an employer, a union, a church or a business group.

These refundable tax credits would be provided so that individuals and families could purchase a minimum catastrophic health insurance policy with a limit on deductibles and out-of-pocket expenses. Refundable tax credits would be available for health insurance premiums, out-of-pocket medical expenses and contributions to Medical Savings Accounts [MSAs].

Every individual and family would receive a basic refundable tax credit with greater tax relief targeted to individuals and families who, because of illness or below average incomes, spend a higher percentage of their income on health care.

To further assist low-income individuals and families, the legislation provides Federal grants to States for health insurance coverage, health promotion and disease prevention. We target financial resources toward those individuals who are ineligible for Medicaid, have incomes less than 150 percent of poverty, and who have unreimbursed medical expenses, after receiving their refundable tax credits, greater than 5 percent of their adjusted gross income.

Because individual Americans, instead of their employers, would own their health care policies, the policies would be portable—changes in career or circumstance would no longer affect coverage. Since there is no so-called employer mandate, this plan encourages job creation instead of the job destruction resulting from the President's plan.

By solving the portability problem and providing needed insurance reforms such as the elimination of preexisting condition clauses, insurance companies will have an important incentive to keep people healthy. Currently, insurance companies have no incentive to treat their policyholders as anything other than transitory customers. They have no reason to invest resources in individuals. With this legislation, insurance companies will recognize that they may have customers for life, and will concentrate their efforts on preventive services such as regular checkups and cancer screenings, an issue of great importance to me.

I also believe that individual ownership of policies will promote more cost-conscious consumption of health care. Cost containment starts with the users of health care services, and empowering them to make the decisions, not government bureaucrats, will help slow the explosion in health care costs.

The Consumer Choice Health Security Act also addresses medical malpractice reform. In no other industrialized country do health providers confront the day-to-day threat of litigation like in the United States. This legislation includes a cap on noneconomic damages of $250,000, elimination of joint and several liability for noneconomic damages, and periodic payments of awards over $100,000. These vital reforms will permit the orderly utilization of services, by reducing, if not eliminating, the need for defensive medicine.

I come from a family that has been forced to confront the health care issue personally. My wife, our daughter, my mother and I are all cancer survivors. My brother, Michael, died of cancer in 1979.

During the difficult moments of our illnesses, we worked with our doctors to choose the treatments that were best for us. We had a choice and so should all Americans.

In short, Mr. President, our legislation will empower Americans to make choices about health care plans and providers. Individuals can make these decisions just as they decide any other important issue, like what kind of house to buy, what mortgage to purchase, the amount of flood insurance to carry—and the list goes on and on.

Our health care system, which accounts for one-seventh of our economy, is the most innovative in the world. We have the best providers, the best hospitals, and the highest quality medical technology. Most importantly, we have choice. These positive forces, which separate our system from others, must be preserved as we strive to correct the problems within the system.

The Consumer Choice Health Security Act accomplishes this goal and keeps vital health care decisions where they belong: in the hands of individuals and families rather than bureaucrats. I encourage my colleagues to support high quality, affordable health care for Americans today and in the future. I urge my Senate colleagues to support this vital legislation.●

Mr. HATCH. Mr. President, I am delighted to join with my distinguished colleagues, Senator NICKLES and Senator MACK, in sponsoring the Consumer Choice and Personal Health Security Act.

Indeed, as we introduce this legislation today, the debate on health care reform now takes center stage before the Congress. And, as my colleagues well know, the discussion on reforming our Nation's health care system will be the preeminent issue before the Congress and the country in 1994.

I, for one, think it's about time that we in the Congress make a careful and thorough examination of the Nation's health care system. Without doubt, Americans do enjoy the finest health care system in the world. But, as we all know too well, there are problems with the system, and we need to carefully address them with appropriate and meaningful legislative solutions.

The President's legislation has served to focus the debate on the ways in which he proposes to address the issue of comprehensive health care reform. Our bill will serve to broaden that debate by contributing workable and appropriate reform proposals.

The President's bill proposes fundamental and sweeping reform of health care through a system of controlled government management. Our bill takes a different approach by empowering consumers with control and a greater role in the decisions affecting their health coverage.

Our bill would decouple employer-provided benefits and health insurance, thereby restoring health care as an individual responsibility. In addition, our plan goes further than the Clinton bill by reforming medical malpractice laws and addressing the problems of punitive damage awards as well as reforming onerous product liability regulations and antitrust law.

I wish to thank my colleagues and the staff for the time and energy they have devoted in developing our legislation. I particularly want to recognize the outstanding work of John Cohrssen on my staff who devoted endless hours in helping to fashion the legislation we have before us today. I look forward to working with my colleagues in the Senate and in the House as consideration of this legislation progresses.

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By Ms. MOSELEY-BRAUN:

S. 1744. A bill to establish a National Commission on Financial Services to study the strength and weaknesses of the U.S. financial services system and its ability to meet the needs of the U.S. economy and the needs of users of the U.S. financial services system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE NATIONAL COMMISSION ON FINANCIAL SERVICES ACT

• Ms. MOSELEY-BRAUN. Mr. President, our financial services system plays a critical role in the American economy. Families use it to purchase a car, to buy a home, to fund their children's education, and for a myriad of other everyday, but vitally important, purposes. Businesses use it to fund their operations, to finance expansion, to create jobs, and for an equally large variety of other reasons. In fact, our economy absolutely depends on the ability of our financial services system to meet the needs of consumers and households, communities, agriculture, business, governments of all types, and nonprofit entities.

It is equally clear that our financial services system, and our economy as a whole, are undergoing major changes. The revolution in communications, computerization, and other technological changes, changes in the kinds of services demanded by various users of our system, the creation of new financial products and services and whole new financial sectors, and structural changes in our economy itself are all combining to reshape our financial system.

Our banking system is shrinking as a percentage of the overall financial system. Mutual funds now have over $2 trillion in assets. And the derivatives area, perhaps most visibly embodied in the two Chicago futures exchanges, has resulted in changes in our financial system that weren't even imagined a few decades ago.

The Federal Government's involvement in our financial services system is almost as complex as the system itself. The Treasury Department, the Department of Housing and Urban Development, the Federal Reserve, the Securities and Exchange Commission, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and the Federal Trade Commission are just some of the Federal departments and agencies with major responsibilities and authorities that directly impact on our financial system.

Federal laws and regulations ensure the stability of our payments system, and protect the savings of ordinary Americans. Federal laws and regulations govern the conduct of monetary policy, and ensure that consumers have the information they need to shop for credit. Federal laws and regulations protect the integrity and fairness of our capital markets, and the privacy of consumer credit history information. Federal laws and regulations created a huge secondary market in mortgages, and regulate important parts of each and every homebuying transaction. Federal laws and regulations in the financial services area affect every single American—and the rest of the world.

Given the scope and extent of Federal involvement in our financial system, and given the scope and extent of the changes now underway in that system and our economy at large, I believe it is time for a comprehensive examination of our financial system. That is why I am today introducing the National Commission on Financial Services Act.

Now, there have been a lot of studies of various financial issues in the past, including: the Hunt Commission, established in 1970; the Financial Institutions in the Nation's Economy [FINE] study, conducted in 1975; President Carter's report on geographic restrictions, conducted in 1978; and, most recently, the 1991 study, entitled "Modernizing the Financial System."

All of these studies examined parts of our financial system. However, the subtitle of the 1991 study, "Recommendations for a Safer, More Competitive Banking System," highlights the differences between what has gone before and what I am proposing today.

The commission approach embodied in my amendment will study the entire financial system, not just the banking system. And, since the banking system is shrinking as a percentage of our total financial system, I think it is appropriate that we look at the entire system in a comprehensive way.

Moreover, this legislation mandates a study of our financial system from the viewpoint of our economy and from the viewpoints of users of the financial system, including consumers and households, communities, agricultural interests, and businesses of all sizes, instead of from the viewpoint of providers or from the viewpoint of government. To ensure that objective is met, the voting member of this commission will be drawn from the users of the system.

I am new to these issues at the Federal level. However, I have worked with them at the State level, and I strongly believe it could be very helpful to have the framework of a broad set of recommendations to help us deal with the huge changes underway in our economy and our financial system.

I do not think such a commission should prevent us from acting on those issues that are ready for action during this Congress. However, whether we attempt to act comprehensively in the future, or whether we go step-by-step, I think we will clearly benefit having some better understanding of: the needs of the users of our financial system; how well the system meets those needs; and the impact Federal laws and regulations have on the system and its ability to meet the needs of consumers, communities, businesses, and the rest of the users of our financial system.

A comprehensive study of our financial system can give Congress and the President a framework that will help us ensure that Federal laws and regulations are adequate and up-to-date, that they do not get in the way of or distort the fundamental changes now underway in our financial system and in our economy, and that they are able to achieve their public policy objectives.

At the same time, such a study can help us frame new responses, to extend and reform Federal laws and rules to cover new areas where necessary and appropriate, and to meet ongoing public needs in new, creative ways.

Mr. President, the commission created by this legislation will report back to Congress in January of 1995. That 1 year time period is, I am convinced, one of the best investments in our future we can make.

If we care about big issues, like the future of our economy and our international competitiveness, and if we care about people and communities, and how the financial system works for them, then we should begin this study now. I urge my colleagues to join me in working to see that the National Commission on Financial Services Act is quickly enacted into law.

Mr. President, I ask unanimous consent that a summary of the major provisions of the National Commission on Financial Services Act, and a copy of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1744

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Commission on Financial Services Act".

**SEC. 2. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.**

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 11 voting members and 6 nonvoting members appointed as follows:

(A) Five voting members and 2 nonvoting members appointed by the President.

(B) Two voting members and 1 nonvoting member appointed by the Speaker of the House of Representatives.

(C) One voting member and 1 nonvoting member appointed by the Minority Leader of the House of Representatives.

(D) Two voting members and 1 nonvoting member appointed by the Majority Leader of the Senate.

(E) One voting member and 1 nonvoting member appointed by the Minority Leader of the Senate.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, including representatives of business, agriculture, and consumer organizations.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointments of the members of the Commission shall be made not later than March 31, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this section referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

**SEC. 3. DUTIES OF THE COMMISSION.**

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a thorough study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including the needs of—

(A) individual consumers and households;

(B) State and local communities;

(C) agriculture;

(D) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial services);

(E) governmental and nonprofit entities; and

(F) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the extent to which Federal administrative and legislative policies—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for users of the system, regardless of where such users are located; and

(C) the extent to which Federal administrative and legislative policies are meeting their objectives in the most cost-effective and efficient manner possible.

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Securities Exchange Commission;

(G) the Commodities Futures Trading Commission;

(H) the Director of the Congressional Budget Office; and

(I) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations on how the Federal Government can improve the operation of the United States financial services system, including whether or not any changes are needed in the legislative and administrative policies that impact on—

(1) the ability of the Board of Governors of the Federal Reserve System to effectively conduct monetary policy;

(2) the ability of the financial services system, or any part thereof, to respond to the needs of users of the system;

(3) the systematic safety of the financial services system;

(4) the cost to participants in the financial services system of providing financial services to users of the system;

(5) the competitiveness of the various providers of financial services;

(6) how funds are allocated to the financial services system; and

(7) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than January 20, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

**SEC. 4. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 5. COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

**SEC. 6. TERMINATION OF COMMISSION.**

The Commission shall terminate 30 days after the date of submission of the report required under section 3(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

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SUMMARY OF MAJOR PROVISIONS OF THE NATIONAL COMMISSION ON FINANCIAL SERVICES ACT

THE STUDY

The Commission, in consultation with a variety of federal agencies, departments and offices, would be charged to:

(a) Conduct a broad-ranging assessment of the strengths and weaknesses of the U.S. financial services system in meeting the needs

of users of that system, including: consumers and households; communities; governmental and non-profit entities, agriculture, small, medium, and large-sized businesses (debt, equity and other needed financial services), and exporters, and others needing international financial services.

(b) Examine the changes underway in the U.S. economy and the financial services area, and the impact of those changes on the ability of the financial services system to meet the needs of users of that system in the next ten years and beyond.

(c) Study how well federal administrative and legal policies help:

(1) Achieve consumer protection objectives,

(2) Ensure competition, prevent anti-competitive acts and practices, and prevent undue concentration,

(3) Ensure financial services are provided in a nondiscriminatory manner; and

(4) Ensure access to the financial services system for all users, wherever located.

Such study should include an examination of whether federal administrative and legal policies are meeting their objectives in the most cost-efficient and effective manner possible.

(d) Consider what steps the federal government should take that could improve the operation of the system, including whether or not any changes are needed in the legal and administrative policies that impact on:

(1) The ability of the Federal Reserve to effectively conduct monetary policy;

(2) The ability of the financial services system, or parts thereof, to respond to the needs of consumers, communities, agriculture, small, medium, and large businesses, governmental and non-profit entities, and exporters;

(3) The systemic safety of the financial services system;

(4) The cost of to some or all participants in the financial services system to providing financial services to users of the system;

(5) The competitiveness of various providers of financial services;

(6) How funds are allocated to the financial services system; and

(7) How funds are allocated by the financial system to users of the system or to categories of users.

COMPOSITION OF THE COMMISSION

(a) 11 voting members: 5, including the Chairman, to be appointed by the President; 2, to be appointed by the Speaker of the House; 1, to be appointed by the Minority Leader of the House; 2, to be appointed by the Majority Leader of the Senate; and 1, to be appointed by the Minority Leader of the Senate.

Voting members shall be appointed from users of the financial system, including consumers, agriculture, business etc. * * *, and from experts in economics, international trade and related disciplines. No voting member shall come from the financial services system or from the government bodies that regulate the financial services system (current or former members).

(b) 6 non-voting members: 2, to be appointed by the President; 1, to be appointed by the Speaker of the House; 1, to be appointed by the Minority Leader of the House; 1, to be appointed by the Majority Leader of the Senate; and 1, to be appointed by the Minority Leader of the Senate.

Non-voting members shall be appointed from among individuals who are experts in finance or in the financial system.

TIMING

The study and legislative recommendations must be completed and transmitted to the President, to the Speaker of the House, and the President Pro Tempore of the Senate on January 20, 1995.●

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By Mr. BRYAN:

S. 1745. A bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress for retirement purposes; to the Committee on Government Affairs.

TREATMENT OF MEMBERS OF CONGRESS' RETIREMENT

● Mr. BRYAN. Mr. President, today I introduce a bill to require the retirement benefits of Members of Congress be on complete parity with that of other Federal civil servants. The current practice where Members of Congress receive a more generous annuity is unacceptable.

Under the present retirement system, Members of Congress pay slightly more into the Federal pension plans than executive branch workers. However, the benefit formulas applicable to Members provide a higher percentage of pre-retirement pay for each year of service than formulas applicable to the executive branch.

This is true whether Members of Congress are covered by the Civil Service Retirement Services [CSRS] or the Federal Employees' Retirement Service [FERS]. CSRS covers Members and executive branch employees who were employed before January 1, 1984. The FERS Program covers Members and executive branch employees hired after January 1, 1984.

In general, Members participating in CSRS pay 8 percent of their gross salary in to that pension plan; executive branch employees covered by the CSRS pay 7 percent of their salary. Members participating in FERS pay 1.3 percent of their gross salary in to the plan; executive branch employees covered by FERS pay 0.8 percent of their salary.

Annuities for Members and executive branch employees are based on accrual rates. Under the present system, accrual rates for Members are higher than those for executive branch employees. The CSRS accrual rate for Members is 2.5 percent for each year of service; for executive branch employees it is 1.5 percent for the first 5 years of service, 1.75 percent for the second 5 years of service, and 2 percent for all service over 10 years. The FERS accrual rate for Members is 1.7 percent for each year of the first 20 years of service and 1 percent for service over 20 years. For executive branch employees, the FERS accrual rate is 1 percent for each year of service if the worker retires before age 62, and 1.1 percent for all service for workers retiring at age 62 or older with at least 20 years of service.

As a matter of fairness, Members of Congress should not receive greater retirement benefits than the civilian Federal employees at Nellis Air Force Base of the Las Vegas Housing and Urban Development field office. The bill I send to the desk will fix this injustice and restore equity to the system.

The bill I introduce will do two things. First, it provides a new rule so that no Members of Congress will receive an annuity that is higher than his or her final rate of pay. Second, it changes the accrual formula under CSRS and FERS to calculate an annuity so that it is the same as all other executive branch employees.

Mr. President, I believe this is essential to show the American people that we are not treating ourselves differently than others in the executive branch. Members of Congress should not receive a more generous retirement—this is a matter of fairness.●

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By Mrs. KASSEBAUM (for herself, Mr. DODD, Mr. INOUYE, Mr. STEVENS, and Mr. DURENBERGER):

S. 1746. A bill to establish a Youth Development Grant Program, and for other purposes; to the Committee on Labor and Human Resources.

YOUTH DEVELOPMENT BLOCK GRANT ACT OF 1993

● Mrs. KASSEBAUM. Mr. President, I introduce the Youth Development Block Grant Act of 1993 on behalf of myself, Senator DODD, Senator STEVENS, Senator INOUYE, and Senator DURENBERGER. The purpose of this initiative is to expand community-based youth development programs for 6- to 19-year-olds.

The United States has concentrated most of its efforts on behalf of youth on specific problems that have captured the attention of the American public. This well intentioned response has had two major results: First, the creation of a maze of narrowly defined categorical programs to address the specific needs of a particular population; and second, insufficient resources devoted to preventive services for youth. These two factors, combined with our concern about the increasing vulnerability of the American family, have led to the development of the Youth Development Block Grant Act.

The central goal of the Youth Development Block Grant [YDBG] is to promote and support positive youth development. The bill will fund programs focused on prevention that help children and youth develop the values and life skills they need to succeed. It reflects the belief of leaders in the field of youth development, including the Carnegie Council on Adolescent Development and the Center for Youth Development and Policy Research, that youth programs should address the development of social, moral, emotional, physical, and cognitive capacities.

Likewise, the legislation reflects the strong consensus among youth development experts that programs should not segregate so-called high-risk youth and should use participatory, hands-on methods to engage youth in learning

and the acquisition of critical life skills.

Rather than wait until young people are in crisis, this legislation will fund programs that help children and youth develop the values and life skills they need to succeed. Rather than forcing service providers to define the needs of a youth to conform to the labyrinth of rules and regulations of a categorical program, they can identify the youth's needs based on what is actually needed. The Youth Development Block Grant represents a holistic approach to youth and to funding community-based programs.

This proposal incorporates many of the principles which policy makers and service providers have identified as necessary for effective federal support for human services—local control, flexibility, coordination, and accountability. Provisions in the legislation concentrate on improving the quality of community-based youth development programs through a focus on basic competencies and the development of effective practice standards.

Most existing youth development programs are provided not by government agencies but by community-based organizations. The Youth Development Block Grant builds on the strength, credibility, and expertise of these community-based organizations by giving them a leadership role in both the planning and delivery of YDBG-funded services. The legislation distinguishes these youth development organizations from other youth-serving organizations that focus primarily on credentialing (such as schools) or treatment and control of youth who have engaged in high-risk behaviors such as substance abuse or juvenile delinquency.

There is a broad and growing consensus among youth policy experts about the importance of increased investment in positive youth development programs. For example, in major recent studies, both the Chapin Hall Center for Children at the University of Chicago and the Carnegie Council have concluded that, if youth are to succeed, there must be a well-developed infrastructure of youth development services in their communities.

While community-based youth development organizations are providing critical services to millions of youth, millions more go unserved or underserved. The proposed funding level reflects the conviction that the federal government must go beyond small demonstration programs and make an investment in strengthening community-based youth development programs.

This legislation authorizes the Youth Development Block Grant for four years. The authorized funding level is $400 million in fiscal year 1995, and "such sums as necessary" for fiscal years 1996, 1997, and 1998.

No new Federal funding will be required. One-half of the funding will be from existing youth development categorical programs and the remainder will be re-directed from other Federal discretionary programs. The Youth Development Block Grant Act represents a commitment to restructure current Federal funding for youth development programs and match existing appropriations for youth development programs with funds from other non-youth service sources.

Just as important as the need to increase the resources available for prevention-focused youth development programs is the need to transform the structure from the current potpourri of narrowly defined categorical programs. We need to make more effective and efficient use of the funds that are available.

Most policy makers and direct service providers agree that human service programs need to be better coordinated and services better integrated. In addition, there is a need for programs to be more locally controlled and funding more flexible. The challenge has been to develop initiatives which incorporate each of these goals and still ensure that programs are accountable for achieving desired outcomes. The Youth Development Block Grant was specifically designed to meet that challenge.

As this bill receives further consideration, a list of currently funded categorical programs for youth development will be identified to be folded into the Youth Development Block Grant structure. These programs will be gradually subsumed into the Youth Development Block Grant over a period of three years to allow for a smooth transition into the new structure.

Funds from youth development categorical programs which are folded into the block grant structure will be matched by the transfer of funds from other Federal discretionary programs. Although this bill would have the effect of eliminating specific categorical youth service programs, the activities and services offered at the local level can continue to operate under the new YDBG structure.

The Youth Development Block Grant Act of 1993 was developed as a bipartisan effort to support preventive youth development activities in local communities. It was developed in conjunction with the National Collaboration for Youth, a 15-member coalition of major youth-serving organizations. These organizations collectively provide direct services to over 25 million children and youth each year.

Members of the National Collaboration for Youth endorsing the Youth Development Block Grant Act include: American Red Cross, Association of Junior Leagues International, Big Brothers/Big Sisters of America, Boy Scouts of America, Boys and Girls Clubs of America, Camp Fire Boys and Girls, Child Welfare League of America, 4-H, Extension Service, Girl Scouts of the USA, Girls Incorporated, National Network of Runaway and Youth Services, The Salvation Army, WAVE, Incorporated, YMCA of the USA, YWCA of the USA.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1746

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Youth Development Block Grant Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Allocation and distribution of funds.
Sec. 6. Local Youth Development Board.
Sec. 7. State Youth Development Commission.
Sec. 8. National Youth Development Commission.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) In an increasingly complex and competitive world economy, the human capital of the United States is its most important resource. Too many young people in the United States are reaching adulthood unprepared to be productive workers, effective parents, or responsible citizens. The United States cannot remain strong unless the Nation ends this tragic waste of human potential.

(2) Over the past decade, public concern related to young people has focused primarily on improving academic performance and combating youth problems such as substance abuse and juvenile delinquency. The Federal Government has established ambitious National Education Goals and declared a "War on Drugs", and Federal Government investment related to both initiatives has increased dramatically.

(3) It is becoming increasingly clear, however, that the United States will neither achieve the education goals of the Nation nor make significant progress on problems such as substance abuse and juvenile delinquency unless the Nation addresses the broader developmental needs of youth. Young people who lack self-confidence, self-discipline, respect for others, and a sense of connection to their families and communities, are unlikely to be successful in school, and far more likely to engage in high-risk behaviors.

(4) Parents have primary responsibility for the social, moral, emotional, physical, and cognitive development of their children. However, tremendous social and demographic changes during the last 30 years have had a significant effect on family life and youth development, creating the need for programs to strengthen families and help parents meet the social, moral, emotional, physical, and cognitive needs of their children.

(5) The lack of supervision of youth by parents and the lack of meaningful activity after school for youth contributes to the spread of violent juvenile delinquency in the

form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among youth in our Nation.

(6) The United States expects too much of its schools if the Nation asks the schools to meet single-handedly the needs described in paragraph (5) in addition to accomplishing their basic educational mission. Only a strong partnership among families, schools, local government, religious organizations, community-based youth-serving organizations, community-based family-serving organizations, business, and labor can create a community environment that truly supports the youth of the Nation in reaching their highest potential.

(7) Nonschool-based youth development programs, including youth clubs, sports and recreation programs, mentoring programs, and leadership development and community service programs, make a major contribution to helping youth develop the life skills and moral values that will prepare the youth for the challenges of adolescence and the independence and responsibilities of adulthood.

(8) Participation in positive youth development programs can lead to a reduction in high-risk behaviors, including school failure, teenage pregnancy, use of alcohol and drugs, and juvenile delinquency. Youth from low-income, at-risk communities, who would greatly benefit from such programs, however, are least likely to have access to such programs.

(9) Community-based youth-serving organizations are an effective resource in developing and implementing community youth development plans, both because of the responsiveness of the organizations to local community values and concerns, and the ability of the organizations to mobilize community resources. For example, the 15 member organizations of the National Collaboration for Youth collectively serve over 25,000,000 youth, and mobilize over 4,000,000 volunteers to carry out community-based youth development services.

(10) Notwithstanding the efforts of community-based youth-serving organizations, in most local communities youth development efforts are so fragmented and underfunded that millions of youth nationwide go unserved, and no process exists through which key groups regularly come together to develop a comprehensive youth development plan. Without a mechanism for coordination, narrowly focused Federal programs are unable to meet the comprehensive needs of the youth of the Nation.

(11) Increased Federal investment in programs under the Head Start Act and other early childhood development programs signals an encouraging shift toward a comprehensive long-term, holistic, investment-oriented strategy in promoting the healthy development of children in the United States.

(12) It is critical that the Federal Government adopt the same type of comprehensive strategy in promoting the positive development of youth, and encourage and empower communities to develop and implement comprehensive youth development plans.

**SEC. 3. PURPOSES.**

It is the purpose of this Act to expand community-based youth development services, and to support communities in designing strategic plans for youth development that—

(1) give priority to prevention of youth problems through youth development;

(2) support the primary role of the family in positive youth development;

(3) support community-based youth development organizations in expanding youth development opportunities; and

(4) promote increased community coordination and collaboration in meeting the developmental needs of youth.

**SEC. 4. DEFINITIONS.**

As used in this Act:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary for Children and Families of the Department of Health and Human Services.

(2) COMMUNITY-BASED.—The term "community-based", used with respect to a youth development organization or a youth-serving organization, means such an organization that—

(A) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) is not a government entity; and

(C) is representative of a community or a significant segment of a community and is engaged in providing services to the community.

(3) COUNTY.—The term "county" includes a political subdivision of a State.

(4) LOCAL BOARD.—The term "Local Board" means a Local Youth Development Board established under section 6.

(5) LOW INCOME FAMILY.—The term "low income family" means a family with an income below the poverty line.

(6) NATIONAL COMMISSION.—The term "National Commission" means the National Youth Development Commission established under section 8.

(7) NATIONAL YOUTH DEVELOPMENT ORGANIZATION.—The term "national youth development organization" means an organization whose purpose and activities are national in scope, and that, either directly or through its local affiliates, provides youth development programs in at least 7 States.

(8) OUTCOME OBJECTIVE.—The term "outcome objective" means an objective that relates to the impact of a program or initiative, with respect to the participants in the program or initiative or the community that the program or initiative serves, such as an objective relating to changes—

(A) in the competencies described in paragraph (15)(A) of individual participants in the program or initiative;

(B) in the incidence of positive or negative behaviors among such participants; or

(C) in the incidence of such behaviors among youth in such community.

(9) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(10) PROCESS OBJECTIVE.—The term "process objective" means an objective that relates to the manner in which a program or initiative is carried out, such as an objective relating to—

(A) the degree to which the program or initiative is reaching its intended target population;

(B) the number, age, gender, and ethnicity of the youth involved in the program or initiative;

(C) the degree to which the services delivered are consistent with the intended program model; and

(D) the cost of delivering services under the program or initiative.

(11) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(12) STATE COMMISSION.—The term "State Commission" means a State Youth Development Commission established under section 7.

(13) YOUTH.—The term "youth" means an individual who is not younger than 6 and not older than 19.

(14) YOUTH DEVELOPMENT ORGANIZATION.—The term "youth development organization" means a youth-serving organization with a major emphasis on providing youth development programs.

(15) YOUTH DEVELOPMENT PROGRAM.—The term "youth development program" means a program that—

(A) in order to enable youth to deal successfully with the challenges of adolescence and prepare the youth for the independence and responsibilities of being parents, workers, and citizens, helps the youth to develop—

(i) social competencies, such as work and family life skills, problem-solving skills, and communication skills;

(ii) moral competencies, such as personal values and ethics, a sense of responsibility and citizenship (including participation in civic life and community service), and respect for diversity;

(iii) emotional competencies, such as a sense of personal identity, self-confidence, autonomy, and the ability to resist negative peer pressure;

(iv) physical competencies, such as physical conditioning and endurance, and an appreciation for and strategies to achieve lifelong physical health and fitness; and

(v) cognitive competencies, such as knowledge, reasoning ability, creativity, and a lifelong commitment to learning and achievement;

(B) conducts activities with a primarily nonacademic focus;

(C) employs primarily active and experiential learning methods; and

(D) promotes the competencies described in subparagraph (A) through group and one-to-one activities, which may include activities in youth clubs, sports and recreation, mentoring, arts, values education, leadership development, crime and delinquency prevention, community service or volunteerism, child care, career counseling, job skills training, life skills training, health education including drug and alcohol prevention, parenting skills activities, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment.

(16) YOUTH-SERVING ORGANIZATION.—The term "youth-serving organization" means an organization with a primary focus on providing youth development, medical, educational, special education, psychological, vocational and training, rehabilitative, or housing services to youth.

**SEC. 5. ALLOCATION AND DISTRIBUTION OF FUNDS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act, $400,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998.

(b) ALLOCATION AND DISTRIBUTION OF LOCAL ALLOCATION FOR FISCAL YEARS FOR WHICH APPROPRIATIONS EQUAL OR EXCEED $100,000,000.—

(1) TOTAL LOCAL ALLOCATION.—For any fiscal year for which the total sums appropriated under subsection (a) are not less than $100,000,000, the Assistant Secretary shall reserve 93.5 percent of such sums (referred to

in this subsection as the "total local allocation") to make allocations under this subsection to States to assist Local Boards in carrying out the activities described in section 6.

(2) ALLOCATION OF FUNDS TO STATES.—

(A) IN GENERAL.—For each such fiscal year, the Assistant Secretary shall allocate to each State Commission the sum (referred to in this subsection as the "State portion of the total local allocation") of—

(i) an amount that bears the same relation to ⅓ of the total local allocation as the number of youth in the State bears to the number of youth in all States;

(ii) an amount that bears the same relation to ⅓ of such allocation as the number of youth from low income families in the State bears to the number of such youth in all States; and

(iii) an amount from the remaining ⅓ of such allocation, calculated in accordance with a formula prescribed by the Secretary that takes into account the extent to which violent juvenile crime has increased in the State since 1990, relative to the extent to which violent juvenile crime has increased in all States since 1990.

(B) REGULATION.—The Secretary shall prescribe the formula described in subparagraph (A)(iii) by regulation issued after consultation with the Attorney General.

(3) DISTRIBUTION OF FUNDS TO STATES.—To be eligible to receive such State portion of the total local allocation, the State Commission shall prepare, and submit to the Assistant Secretary, an application at such time, in such manner, and containing such information, as the Assistant Secretary may reasonably require. Such application shall include, at a minimum, an assurance that the State Commission is prepared to administer such amount in compliance with all the requirements of this Act, and, in the case of any application submitted after the first year in which the State Commission receives funds under this Act, the State strategic plan described in section 7(c)(4).

(4) ALLOCATION OF FUNDS TO LOCAL BOARDS.—

(A) IN GENERAL.—For each fiscal year for which a State receives such State portion of the total local allocation, the State Commission shall allocate to each Local Board in the State the sum (referred to in this subsection as the "local allocation") of—

(i) an amount that bears the same relation to ⅓ of the State portion of the total local allocation as the number of youth in the county served by the Local Board bears to the number of youth in the State;

(ii) an amount that bears the same relation to ⅓ of such State portion as the number of youth from low income families in the county bears to the number of such youth in the State; and

(iii) an amount from the remaining ⅓ of such State portion, calculated in accordance with a formula prescribed by the Secretary that takes into account the extent to which violent juvenile crime has increased in the county since 1990, relative to the extent to which violent juvenile crime has increased in the State since 1990.

(B) REGULATION.—The Secretary shall prescribe the formula described in subparagraph (A)(iii) by regulation issued after consultation with the Attorney General.

(5) DISTRIBUTION OF FUNDS TO LOCAL BOARDS.—

(A) INITIAL PLANNING FUNDS.—For the first fiscal year for which Local Boards in a State are eligible to receive funds under this subsection, the State Commission shall make available to each eligible Local Board in the State, 5 percent of the local allocation of such Board, to be used for initial planning purposes. To be eligible to receive such amount, the Local Board shall submit to the State Commission a letter of intent to apply for funds under this subsection. Such letter of intent shall include a list of the members of the Local Board, including sufficient information about their organizational affiliations to demonstrate compliance with the requirements of subsections (c) and (d) of section 6.

(B) DISTRIBUTION OF PROGRAM FUNDS.—

(i) IN GENERAL.—For each fiscal year for which a State receives a State portion of the total local allocation, the State Commission shall distribute to each eligible Local Board in the State an amount equal to the remainder of the local allocation of such Board.

(ii) APPLICATION.—To be eligible to receive such amount, the Local Board shall prepare, and submit to the State Commission, an application, at such time, in such manner, and containing such information as the State Commission may reasonably require to assure compliance with this Act. Such application shall include, at a minimum, a local strategic plan described in section 6(f), a description of the programs for which funding will be provided, and information indicating the extent to which the programs meet the effective practice standards described in section 8(c)(3)(C).

(c) ALLOCATION AND DISTRIBUTION OF STATE ALLOCATION FOR FISCAL YEARS FOR WHICH APPROPRIATIONS EQUAL OR EXCEED $100,000,000.—

(1) TOTAL STATE ALLOCATION.—For any fiscal year for which the total sums appropriated under subsection (a) are not less than $100,000,000, the Assistant Secretary shall reserve 4 percent of such sums (referred to in this section as the "total State allocation") to make allocations to State Commissions to carry out the activities described in section 7.

(2) GENERAL ALLOCATION.—Except as provided in paragraph (3), for each such year, the Assistant Secretary shall make such allocations in accordance with the requirements of subsection (b)(2). For the purposes of the application of such requirements to allocations under this subsection, references in subsection (b)(2) to the total local allocation shall be deemed to be references to the total State allocation.

(3) MINIMUM STATE ALLOCATION.—For each such year, the Assistant Secretary shall allocate to each State Commission under this subsection an amount that is not less than ½ of 1 percent of the total State allocation.

(d) ALLOCATION AND DISTRIBUTION OF LOCAL ALLOCATION FOR FISCAL YEARS FOR WHICH APPROPRIATIONS ARE LESS THAN $100,000,000.—

(1) GRANTS.—For any fiscal year for which the total sums appropriated under subsection (a) are less than $100,000,000, the Assistant Secretary shall reserve 97.5 percent of such sums and shall make grants from such reserved sums, on a competitive basis, to eligible Local Boards to carry out the activities described in section 6.

(2) CONSIDERATIONS.—In making such grants, the Assistant Secretary shall consider the criteria described in the formula provided in subsection (b)(2). The Assistant Secretary shall ensure an equitable geographic distribution of such grants, and shall ensure that a variety of program models receive funding under this subsection.

(3) APPLICATION.—To be eligible to receive a grant under this section, a Local Board shall submit to the Assistant Secretary an application at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the Local Board will comply with such evaluation process as the Assistant Secretary may reasonably require to assure compliance with this Act, and including any information that a Local Board is required to submit in an application described in subsection (b)(5)(B).

(4) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a Local Board shall meet such requirements as the Assistant Secretary may by regulation require.

(5) INITIAL DISTRIBUTION.—The Assistant Secretary may award an initial grant to a Local Board under this subsection for a period of up to 3 years. The Assistant Secretary may terminate the funding made available through such grant during such period if the Local Board fails to comply with the provisions of this Act.

(6) RENEWAL OF GRANTS.—After the initial grant period, in determining whether to renew or continue a grant to a Local Board to carry out activities, the Assistant Secretary shall give substantial weight to the effectiveness of the activities in achieving the process and outcome objectives specified in the local strategic plan described in section 6(f)(1). If the total sums appropriated under subsection (a) are greater than $100,000,000 for the fiscal year for which the Local Board seeks a renewal or continuation, the Local Board shall apply to the State Commission for funding under subsection (b).

(7) TREATMENT OF GRANTS.—For purposes of this Act, a grant awarded to a Local Board under this section shall be considered to be a local allocation.

(8) APPLICATION OF PROVISIONS.—The provisions of section 6 shall apply to Local Boards receiving funds under this subsection. For purposes of the application of such provisions, references to the State Commission shall be deemed to be references to the Assistant Secretary.

(e) NATIVE AMERICAN ORGANIZATIONS.—

(1) IN GENERAL.—From the sums appropriated under subsection (a) for any fiscal year, the Assistant Secretary shall reserve 1.5 percent of such sums to make grants to eligible Native American organizations to assist the organizations in carrying out the activities described in section 6.

(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a Native American organization shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may reasonably require to assure compliance with this Act, including any information that a Local Board is required to submit in an application described in subsection (b)(5)(B).

(3) APPLICATION OF PROVISIONS.—The provisions of section 6 shall apply to Native American organizations receiving funds through grants made under this subsection. For purposes of the application of such provisions, references to a county shall be deemed to be references to the area served by the organization, and references to the State Commission shall be deemed to be references to the Assistant Secretary.

(4) DEFINITION.—As used in this subsection:

(A) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 250b(e)).

(B) NATIVE AMERICAN ORGANIZATION.—The term "Native American organization" means an Indian tribe or Native Hawaiian Organization.

(C) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian Organization" has the meaning given the term in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)).

(f) RESERVATION OF FUNDS FOR ADMINISTRATION FOR CHILDREN AND FAMILIES.—From the sums appropriated under subsection (a) for each fiscal year, the Assistant Secretary shall reserve 1 percent of such sums for the National Commission and the Administration for Children and Families to carry out the activities required by this Act.

(g) AUTHORITY TO ASSIST LOCAL BOARDS IN NONPARTICIPATING STATES/REALLOCATION OF STATE FUNDS.—

(1) IN GENERAL.—For any fiscal year for which a State Commission does not submit an application for an allocation under subsection (b), the Assistant Secretary may use the allocation of such State to make direct grants to eligible Local Boards in the nonparticipating State.

(2) APPLICATION.—To be eligible to receive a direct grant under paragraph (1), a Local Board shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may reasonably require to assure compliance with this Act, including any information that a Local Board is required to submit in an application described in subsection (b)(5)(B).

(3) APPLICATION OF PROVISIONS.—The provisions of section 6 shall apply to Local Boards receiving funds through grants made under this subsection. For purposes of the application of such provisions, references to the State Commission shall be deemed to be references to the Assistant Secretary.

(h) STATE REALLOCATION.—For any fiscal year for which a State Commission does not submit an application for an allocation under subsection (b), and the Assistant Secretary does not use the allocation as described in subsection (g), the Assistant Secretary shall make available the allocation of such State to such other States as the Assistant Secretary may determine to be appropriate.

(i) COUNTY REALLOCATION.—For any fiscal year for which a Local Board in a State does not submit an application for an allocation under subsection (b), the State Commission shall make available the allocation of such county to such other counties in the State as the State Commission may determine to be appropriate.

(j) OBLIGATION AND EXPENDITURE OF FUNDS.—

(1) STATE OBLIGATION OF FUNDS.—Any State Commission that receives an allocation from the Assistant Secretary under subsection (b) or (c) shall obligate the allocation not later than 1 year after the date of such receipt or return the allocation to the Assistant Secretary for reallocation in accordance with subsection (h).

(2) LOCAL BOARD EXPENDITURE OF FUNDS.—Any Local Board that receives an allocation from a State Commission under subsection (b) or (d) shall expend the allocation not later than 3 years after the date of such receipt or return the allocation to the State Commission for reallocation in accordance with subsection (i).

**SEC. 6. LOCAL YOUTH DEVELOPMENT BOARD.**

(a) ESTABLISHMENT OF LOCAL BOARD.—

(1) IN GENERAL.—In order for entities within a county to be eligible to receive assistance under this Act, the Chief Elected Officer of a county shall facilitate the establishment of a local entity, or designate an existing local entity, that meets the requirements of this section, to serve as a Local Youth Development Board.

(2) ESTABLISHMENT OF MULTICOUNTY LOCAL BOARD.—The Chief Executive Officers of 2 or more counties may agree to facilitate the establishment of a local entity, or designate an existing entity, that meets the requirements of this section, to serve as a multicounty Local Board. Such a multicounty Local Board shall carry out the duties described in subsections (f), (g), (i), and (j) with respect to the counties involved. If such a multicounty Local Board is established, all duties required by this section to be carried out by the Chief Executive Officer of a county shall be carried out jointly by the Chief Executive Officers of each participating county.

(b) NUMBER OF MEMBERS ON THE LOCAL BOARD.—The Chief Executive Officer of the county shall determine the total number of members on the Local Board.

(c) COMPOSITION OF LOCAL BOARD.—

(1) REPRESENTATIVES OF YOUTH DEVELOPMENT ORGANIZATIONS.—

(A) REPRESENTATIVES OF NATIONALLY AFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—One-third of the members of the Local Board shall be representatives of community-based youth development organizations that are affiliated with national youth development organizations.

(B) REPRESENTATIVES OF NONAFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—One-third of the members of the Local Board shall be representatives of community-based youth development organizations that are not affiliated with national youth development organizations.

(C) SPECIAL RULE FOR LESS POPULATED COUNTIES.—In the case of a county with a population of 100,000 or less, if the Chief Executive Officer of the county determines that, because of the absence of community-based youth development organizations, the county cannot establish a Local Board meeting the requirements of subparagraph (A) or (B), representatives of community-based youth-serving organizations may be selected to serve on the Local Board, and may participate on the Local Board, on the same basis as representatives of community-based youth development organizations.

(2) OTHER COMMUNITY REPRESENTATIVES.—One-third of the members of the Local Board shall be representatives of the community, such as representatives of youth-serving organizations, local government, religious organizations, educational institutions, business, labor, private funding organizations, parents, or youth.

(d) SELECTION OF LOCAL BOARD MEMBERS.—

(1) REPRESENTATIVES OF YOUTH DEVELOPMENT ORGANIZATIONS.—Organizations described in subsection (c)(1)(A) that provide services within the county shall select the members described in such subsection. Organizations described in subsection (c)(1)(B) that provide services within the county shall select the members described in such subsection. The Local Board shall include, in the application described in section 5(b)(5), a description of the processes used by both such types of organizations to select members of the Local Board.

(2) OTHER COMMUNITY REPRESENTATIVES.—Members described in subsection (c)(2) shall be appointed by the Chief Executive Officer of the county. If any political subdivision of a State is located totally or partially within the county, and the population of the subdivision is more than 40 percent of the total population of the county, the Chief Executive Officer of the subdivision and the Chief Executive Officer shall jointly appoint such members.

(3) AGE OF MEMBERS.—At least 2 of the members of the Local Board shall be under the age of 20 at the time of such appointment.

(4) BACKGROUND OF MEMBERS.—The membership of the Board shall reflect the racial, ethnic, and gender composition of the county population.

(5) TERMS; OFFICERS; VACANCIES.—The Local Board shall adopt, and shall include in the application described in section 5(b)(5), bylaws that include provisions regarding the terms of office of members, the election of officers, and the selection of members to fill vacancies, of the Local Board.

(e) FISCAL AGENT.—

(1) APPOINTMENT OF FISCAL AGENT.—The Local Board shall appoint a fiscal agent for the Board.

(2) DUTIES.—The fiscal agent shall carry out such duties as the Local Board may determine to be appropriate.

(f) DUTIES OF LOCAL BOARD.—

(1) LOCAL STRATEGIC PLAN.—The Local Board shall prepare and submit to the State Commission for approval, as part of the application described in section 5(b)(5), a local strategic plan for youth development in the county involved, including—

(A) the results of an assessment of local needs and resources;

(B) specific process and outcome objectives for youth development programs; and

(C) measures of program effectiveness that shall be used to evaluate the progress of grant recipients in achieving such objectives.

(2) MONITORING, EVALUATION, AND TECHNICAL ASSISTANCE.—The Local Board shall be responsible for establishing monitoring and evaluation procedures, consistent with such requirements as may be established by the Assistant Secretary, to assess the progress of grant recipients in achieving the process and outcome objectives identified in the local strategic plan. Such procedures shall utilize the measures of program effectiveness described in paragraph (1)(C) and the standards for effective practices described in section 8(c)(3)(C). Local Boards shall also provide technical assistance to applicants and grant recipients under subsection (g).

(3) APPEAL.—In the event that a State Commission denies approval of the strategic plan of the Local Board described in paragraph (1), the Local Board may, in accordance with regulations to be established by the Assistant Secretary, appeal the denial.

(g) GRANTS.—

(1) IN GENERAL.—The Local Board shall award grants in accordance with this subsection to—

(A) eligible community-based youth development organizations; and

(B) eligible partnerships that—

(i) are comprised of youth-serving organizations and governmental entities; and

(ii) conduct youth development programs,

to pay for the Federal share of carrying out youth development programs addressing one or more of the process objectives, and one or more of the outcome objectives, established in the local strategic plan described in subsection (f)(1).

(2) REQUEST FOR PROPOSALS.—The Local Board shall issue a request for proposals, which shall invite the organizations and partnerships described in paragraph (1) to apply for a grant under paragraph (1). Such request shall specify the process and outcome objectives to be addressed by the Local Board.

(3) ELIGIBLE APPLICANTS.—

(A) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Local Board shall—

(i) award at least 85 percent of the funds made available through such grants to community-based youth development organizations certified under subparagraph (B); and

(ii) take into account the extent to which the program meets the effective practice standards described in section 8(c)(3)(C).

(B) CERTIFICATION.—

(i) PROCEDURE.—The Local Board shall establish a procedure, in accordance with regulations to be issued by the Assistant Secretary, for certifying organizations as community-based youth development organizations.

(ii) APPEAL.—The Assistant Secretary shall issue regulations that specify a process by which an organization may appeal a denial of such certification.

(4) GRANT APPLICATIONS.—To be eligible to receive a grant under this subsection, an organization or partnership described in paragraph (1) shall submit an application to the Local Board at such time, in such manner, and containing such information as the Local Board reasonably may require, including, at a minimum, the following information:

(A) In the case of an organization, a statement regarding whether the organization is a community-based youth development organization, and, if the organization seeks certification as such an organization, sufficient information to substantiate the statement.

(B) The manner in which the program will address the process and outcome objectives identified in the local strategic plan described in subsection (f)(1).

(C) The extent to which the program utilizes the effective practice standards established under section 8(c)(3)(C).

(D) A proposed budget for the program.

(5) FUNDING PERIOD.—The Local Board may award a grant to an organization or partnership under paragraph (1) for a period of up to 3 years. The Local Board may terminate the funding made available through such grant during such period if the program fails to comply with the requirements of this Act, or if insufficient Federal funds are appropriated under section 5(a) to permit the continuation of funding for the full grant period of all such grants awarded by the Local Board.

(6) RENEWALS OF GRANTS.—The Local Board may renew grants made under paragraph (1). After the initial grant period, in determining whether to renew a grant to a Local Board to carry out activities, the Local Board shall give substantial weight to the effectiveness of the activities in achieving process and outcome objectives specified in a local strategic plan described in subsection (f)(1).

(7) FEDERAL SHARE REQUIREMENT.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out a youth development program described in paragraph (1) shall be—

(i) 80 percent for the first year for which the program receives funding under this subsection;

(ii) 65 percent for the second such year;

(iii) 50 percent for the third such year; and

(iv) 30 percent for the fourth such year and any subsequent year.

(B) NON-FEDERAL SHARE.—In providing for the remaining share of the cost of carrying out such a program, each recipient of assistance under this subsection—

(i) shall provide for such share through private sources;

(ii) may provide for such share through a payment in cash; and

(iii) may provide for not more than 25 percent of such share through a payment in kind, fairly evaluated, including facilities, equipment, or services.

(h) ANNUAL REPORTS TO LOCAL BOARD.—Each organization or partnership receiving a grant under subsection (g) to carry out a program shall, not later than 45 days after the end of each fiscal year of the Local Board, prepare and submit to the Local Board an annual report on the program during the fiscal year, in such manner and containing such information as the Assistant Secretary may reasonably require to determine compliance with this Act.

(i) ANNUAL REPORT TO STATE COMMISSION.—Each Local Board shall, not later than 75 days after the end of each fiscal year of the Local Board, prepare and submit to the State Commission an annual report in such manner and containing such information as the Assistant Secretary may reasonably require to determine compliance with this Act. Such report shall contain, at a minimum, information on the programs and activities funded by the Local Board during the fiscal year under this section and the extent to which the programs achieved the process and outcome objectives specified in the local strategic plan under subsection (f).

(j) PLANNING, ADMINISTRATION, COORDINATION, EVALUATION, AND FISCAL AGENT EXPENSES.—In addition to any initial planning funds provided under section 5(b)(5)(A), the Local Board may use up to 5 percent of the funds received under section 5(b)(5)(B) for planning, administration, coordination, and evaluation expenses, and expenses of the fiscal agent of the Local Board. Each organization or partnership that receives a grant under subsection (g) may use up to 10 percent of the funds received under the grant for planning, administration, and coordination, and may use up to an additional 5 percent of such funds for evaluation expenses.

**SEC. 7. STATE YOUTH DEVELOPMENT COMMISSION.**

(a) ESTABLISHMENT OF COMMISSION.—In order for entities within a State to be eligible to receive assistance under this Act, the Governor of the State shall establish an entity, or designate an existing entity, that meets the requirements of this section, to serve as a State Youth Development Commission.

(b) SIZE, COMPOSITION, AND APPOINTMENT OF COMMISSION.—

(1) NUMBER OF MEMBERS.—The Governor of the State shall determine the total number of members on the Commission.

(2) APPOINTMENT BY THE GOVERNOR.—The members of the Commission shall be appointed by the Governor.

(3) COMPOSITION OF COMMISSION.—

(A) REPRESENTATIVES OF NATIONALLY AFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—One-third of the members of the State Commission shall be representatives described in section 6(c)(1)(A).

(B) REPRESENTATIVES OF NONAFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—One-third of the members of the State Commission shall be representatives described in section 6(c)(1)(B).

(C) OTHER MEMBERS.—One-third of the members of the State Commission shall be representatives of State governments or representatives described in section 6(c)(2).

(D) AGE OF MEMBERS.—At least 2 of the members appointed to the Commission shall be under the age of 20 at the time of such appointment.

(E) BACKGROUND OF MEMBERS.—The Governor shall ensure that the membership of the State Commission fairly represents urban and rural populations and reflects the racial, ethnic, and gender composition of the State population.

(F) LOCAL BOARD REPRESENTATION.—At least 2 of the members appointed to the Commission shall be members of different Local Boards in the State at the time of their appointment.

(4) TERMS; OFFICERS; VACANCIES.—The State Commission shall adopt, and shall include in the application described in section 5(b)(3), bylaws that include provisions regarding the terms of office of members, the election of officers, and the selection of members to fill vacancies, of the State Commission.

(c) DUTIES OF STATE COMMISSION.—

(1) REVIEW OF COMMUNITY YOUTH DEVELOPMENT PLANS.—In accordance with regulations issued by the Assistant Secretary, within 30 days of the submission by a Local Board of an application under section 5(b)(5), the State Commission shall either approve the application and distribute to the Local Board its local allocation under section 5, or notify the Local Board of the additional steps that the Local Board shall take to bring the plan into compliance with this Act.

(2) MONITORING OPERATIONS OF LOCAL BOARDS.—The Commission shall have primary responsibility for ensuring that the Local Boards operate in compliance with this Act.

(3) TECHNICAL ASSISTANCE TO LOCAL BOARDS.—The State Commission shall provide technical assistance related to the development and implementation of local strategic plans described in section 6(f) to Local Boards that are applicants for, or recipients of, local allocations under section 5(b).

(4) GOALS AND STRATEGIC PLAN FOR YOUTH DEVELOPMENT.—

(A) STATE POLICY GOALS.—After a review of local strategic plans submitted by Local Boards within the State under section 6(f), the State Commission and the Governor shall develop policy goals for the State, based on the process and outcome objectives in such strategic plans.

(B) STATE STRATEGIC PLAN.—Based on the State policy goals, the Commission and the Governor shall develop a State strategic plan for youth development, including specific State process and outcome objectives, designed to achieve the State policy goals.

(5) ANNUAL REPORT.—Each State Commission shall, not later than 120 days after the end of each fiscal year of the State Commission, prepare and submit to the Assistant Secretary and the National Commission an annual report, in such manner and containing such information as the Assistant Secretary may reasonably require to determine compliance with this Act. Such report shall contain, at a minimum, information on the programs and activities funded in the State during the fiscal year under this Act, and the extent to which the Local Boards in the State achieved the process and outcome objectives specified in the local strategic plan described in section 6(f)(1).

(d) RELATIONSHIP TO INDEPENDENT STATE BODY ESTABLISHED UNDER THE CLAUDE PEPPER YOUNG AMERICANS ACT OF 1990.—To provide improved coordination of public and private services for youth and their families, the State Commission shall—

(1) consult with the Independent State Body established under section 930 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12336) in the development of the State strategic plan under subsection (c)(4);

(2) consult with the Independent State Body in developing and implementing strategies for improved coordination between activities funded under this Act and other public and private services for youth and their families; and

(3) submit a copy of the annual report required under subsection (c)(5) to the Independent State Body, concurrently with the submission of the report to the Assistant Secretary and the National Commission.

(e) COORDINATION WITH INDEPENDENT STATE BODY ESTABLISHED UNDER THE CLAUDE PEPPER YOUNG AMERICANS ACT OF 1990.—In addition to the annual report required under subsection (c)(5), the State Commission shall provide information obtained from the annual reports submitted by the Local Boards under section 6(i) to the Independent State Body under subsection (d)(3), including a detailed accounting of the number of participants in programs in the State that are funded under this Act, specified by age, gender, economic background, race, ethnicity, and disability.

**SEC. 8. NATIONAL YOUTH DEVELOPMENT COMMISSION.**

(a) ESTABLISHMENT OF NATIONAL YOUTH DEVELOPMENT COMMISSION.—There is established a National Youth Development Commission that shall advise the Assistant Secretary on the implementation of this Act.

(b) ESTABLISHMENT, SIZE, COMPOSITION, AND APPOINTMENT OF NATIONAL COMMISSION.—

(1) ESTABLISHMENT; NUMBER OF MEMBERS.—The National Youth Development Commission shall be composed of 21 voting members, and such ex officio nonvoting members as the President may determine to be appropriate.

(2) APPOINTMENT OF NATIONAL COMMISSION.—

(A) IN GENERAL.—The voting members of the National Commission shall be appointed by the President, by and with the advice and consent of the Senate.

(B) NOMINATIONS FROM HOUSE OF REPRESENTATIVES.—Seven voting members of the National Commission shall be appointed from among individuals nominated by the Speaker and Minority Leader of the House of Representatives.

(C) NOMINATIONS FROM SENATE.—Seven voting members of the National Commission shall be appointed from among individuals nominated by the Majority Leader and Minority Leader of the Senate.

(D) TIMING.—The President shall appoint the initial voting members of the Commission within 90 days after the date of enactment of this Act.

(3) COMPOSITION OF NATIONAL COMMISSION.—

(A) REPRESENTATIVES OF NATIONALLY AFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—Seven of the voting members of the National Commission shall be representatives of national youth development organizations, or of the affiliates of such organizations.

(B) REPRESENTATIVES OF NONAFFILIATED YOUTH DEVELOPMENT ORGANIZATIONS.—Seven of the voting members of the National Commission shall be representatives described in section 6(c)(1)(B).

(C) OTHER MEMBERS.—Seven of the voting members of the National Commission shall be appointed from among representatives described in section 7(b)(3)(C).

(D) AGE OF MEMBERS.—At least 2 of the voting members appointed to the National Commission shall be under the age of 20 at the time of such appointment.

(E) BACKGROUND OF MEMBERS.—The President shall ensure that the voting membership of the National Commission fairly represents urban and rural populations and reflects the racial, ethnic, and gender composition of the population of the United States.

(4) TERM OF OFFICE.—

(A) IN GENERAL.—Each voting member of the Commission shall serve for a term of 3 years, except that one-third of the members first appointed to the Commission after the date of enactment of this section shall serve for a term of 1 year, and one-third of such members shall serve for a term of 2 years, as designated by the President. The members designated to serve a term of 1 year, and the members designated to serve a term of 2 years, shall include a fair distribution of members from the 3 categories of members described in subparagraphs (A), (B), and (C) of paragraph (3), and a fair distribution of members appointed as provided in paragraph (2)(B), of members appointed as provided in paragraph (2)(C), and of other members.

(B) REAPPOINTMENT.—Members of the National Commission may not serve more than 2 consecutive terms.

(5) VACANCIES.—Any vacancy on the National Commission shall be filled in the same manner as the original appointment. In filling such a vacancy, the President shall ensure that the National Commission meets the requirements of paragraph (3). Any member appointed to fill such a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed or elected.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—The National Commission shall elect a Chairperson and Vice Chairperson from among its members.

(7) OTHER OFFICERS.—The Commission may elect from among its membership such additional officers for the Commission as the Commission determines to be appropriate.

(8) MEETINGS.—The Commission shall meet not less often than 2 times each year. The Commission shall hold additional meetings if 15 members of the Commission request such meetings in writing. A majority of the appointed members of the Commission shall constitute a quorum.

(9) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, members of such Commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for persons employed intermittently in the Government service.

(10) SPECIAL GOVERNMENT EMPLOYEES.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, and any other provision of Federal law, a member of the Commission (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

(11) STATUS OF MEMBERS.—

(A) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a member of the Commission shall be considered to be a Federal employee.

(B) OTHER CLAIMS.—A member of the Commission has no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Commission, in connection with any transaction involving the provision of financial assistance by the Commission or the Administration for Children and Families. This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Commission.

(C) EFFECT ON OTHER LAW.—This subsection shall not be construed—

(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions; or

(ii) to affect any other right or remedy against the United States under applicable law, or against any person.

(12) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the National Commission.

(c) DUTIES OF NATIONAL COMMISSION AND ASSISTANT SECRETARY.—

(1) DUTIES OF NATIONAL COMMISSION.—The National Commission shall—

(A) review and approve the proposal described in paragraph (2)(A)(i), regarding the goals and strategic plan referred to in such paragraph;

(B) review and approve the proposal described in paragraph (2)(B)(i), regarding the grants, contracts, allocations, reallocations, and payments described in paragraph (2)(B);

(C) review and approve the proposal described in paragraph (2)(C)(i), regarding the regulations, standards, policies, and procedures, described in such paragraph;

(D) review and approve the proposed plan for evaluation and monitoring referred to in paragraph (2)(D)(i);

(E) review and approve the proposed report referred to in paragraph (2)(E)(i);

(F) review, and advise the Assistant Secretary regarding, such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act;

(G) inform the Assistant Secretary of any aspects of the actions of the Assistant Secretary that are not in compliance with the goals and strategic plan approved under subparagraph (A), the proposals approved under subparagraphs (B) and (C), the plan approved under subparagraph (D), and the report approved under subparagraph (E);

(H) advise the President and the Congress concerning developments relating to youth development that merit the attention of the President and the Congress;

(I) ensure the effective dissemination of information and facilitation of the transfer of technology on youth development issues, including program information, sources of funding, and methods of evaluation;

(J) provide (directly or by contract) training and technical assistance to State Commissions and Local Boards; and

(K) carry out any other activities determined to be appropriate by the Assistant Secretary.

(2) GENERAL DUTIES OF ASSISTANT SECRETARY.—The Assistant Secretary shall—

(A)(i) prepare and submit to the National Commission a proposal regarding the goals and strategic plan described in paragraph (3)(A); and

(ii) after receiving and reviewing approved goals and an approved strategic plan under paragraph (1)(A), issue the goals and strategic plan described in paragraph (3)(A);

(B)(i) prepare and submit to the National Commission a proposal regarding such grants, contracts, allocations, and reallocations, as are necessary or appropriate to carry out this Act; and

(ii) after receiving and reviewing an approved proposal under paragraph (1)(B),

make such grants, contracts, allocations, and reallocations, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments);

(C)(i) prepare and submit to the National Commission a proposal regarding the regulations described in paragraph (3)(B), and such other standards, policies, and procedures, as are necessary or appropriate to carry out this Act; and

(ii) after receiving and reviewing an approved proposal under paragraph (1)(C)—

(I) establish such regulations, standards, policies, and procedures as are necessary or appropriate to carry out this Act; and

(II) establish and administer such programs and initiatives as are necessary or appropriate to carry out this Act;

(D)(i) prepare and submit to the National Commission a proposed plan for the evaluation and monitoring of activities under this Act, in accordance with paragraph (3)(D); and

(ii) after receiving an approved plan under paragraph (1)(D) establish the system described in paragraph (3)(D);

(E)(i) prepare and submit to the National Commission a proposed report described in paragraph (3)(F); and

(ii) after receiving an approved report under paragraph (1)(E), submit the report described in paragraph (3)(F);

(F) prepare and submit to the National Commission an annual report, and such interim reports as may be necessary, describing the major actions of the Assistant Secretary with respect to the personnel that carry out this Act, and with respect to the standards, policies, procedures, programs, and initiatives implemented to carry out this Act;

(G) inform the National Commission of, and provide an explanation to the National Commission regarding, any substantial differences regarding the implementation of this Act between—

(i) the actions of the Assistant Secretary; and

(ii)(I) the goals and strategic plan approved by the National Commission under paragraph (1)(A);

(II) the proposals approved by the National Commission under subparagraph (B) or (C) of paragraph (1);

(III) the evaluation and monitoring plan approved by the National Commission under paragraph (1)(D); or

(IV) the report approved by the National Commission under paragraph (1)(E); and

(H) consult with appropriate Federal agencies in administering the programs and initiatives carried out under this Act.

(3) SPECIFIC DUTIES OF THE ASSISTANT SECRETARY.—

(A) NATIONAL POLICY GOALS AND STRATEGIC PLAN.—

(i) NATIONAL POLICY GOALS.—After a review of State strategic plans developed under section 7(c)(4), and input from Local Boards, the Assistant Secretary shall develop and issue national policy goals that are based on the process and outcome objectives specified in such plans.

(ii) NATIONAL STRATEGIC PLAN FOR YOUTH DEVELOPMENT.—Based on the national policy goals, the Assistant Secretary shall develop a national strategic plan for youth development, including specific process and outcome objectives, designed to achieve the national policy goals.

(B) REGULATIONS.—The Assistant Secretary shall issue all regulations necessary for the administration of this Act, including—

(i) regulations (regarding funding formulas) described in paragraphs (2) and (4) of section 5(b);

(ii) regulations (regarding appeals of denials of local strategic plans) under section 6(f)(3);

(iii) regulations (regarding certification, and appeals of denials of certification, of organizations as community-based youth development organizations) under section 6(g)(3);

(iv) regulations (regarding review of the applications of Local Boards by State Commissions) under section 7(c)(1);

(v) effective practice standards described in subparagraph (C);

(vi) regulations that specify a process for certifying that an organization qualifies as a national youth development organization; and

(vii) interim final regulations governing the first fiscal year of operation under this Act, which shall be issued within 120 days after the appointment of the National Commission.

(C) EFFECTIVE PRACTICE STANDARDS.—The Assistant Secretary shall develop and issue standards that specify effective practices for conducting community-based youth development programs, and such specified practices shall include—

(i) addressing one or more of the process objectives, and one or more of the outcome objectives, identified in the local strategic plan described in section 6(f)(1);

(ii) incorporating components that promote the competencies described in section 4(15)(A) in youth;

(iii) recognizing the primary role of the family in positive youth development and seeking to strengthen families;

(iv) promoting the involvement of youth, parents, and other community members in the planning and implementation of the program;

(v) coordinating services with other youth and family services in the community, and helping participants access the services;

(vi) exposing youth to a variety of adult role models and mentors;

(vii) encouraging youth leadership and civic involvement;

(viii) seeking to establish a long-term relationship with participating youth;

(ix) employing strong outreach efforts to low-income youth and their families;

(x) providing age-appropriate programs;

(xi) providing programs that—

(I) are open to all youth regardless of such factors as race, color, religion, sex, national origin, disability, or social or economic background; or

(II) target a population related on the basis of one or more of such factors, if such targeting is designed to meet the special needs of such population; and

(xii) using not less than 5 percent and not more than 10 percent of funds made available through the grant to provide preservice and inservice training and educational materials and services for program staff.

(D) MONITORING AND EVALUATION.—The Assistant Secretary shall develop and establish a system for monitoring and evaluating the effectiveness of activities funded under this Act. The system shall utilize the standards for effective practices issued under subparagraph (C).

(E) COORDINATION.—The Assistant Secretary shall consult with appropriate Federal agencies to ensure effective coordination of programs funded under this Act with other Federal programs serving youth and families.

(F) REPORT.—Every 2 years, the Assistant Secretary shall submit to the President and the Congress a report describing the activities funded under this Act, and an assessment of the effectiveness of the activities in meeting the process and outcome objectives described in subparagraph (A)(ii).

(d) RELATIONSHIP TO FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.—To provide improved coordination of public and private services for youth and their families, the National Commission shall—

(1) consult with the Federal Council on Children, Youth, and Families established under section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314), in developing and implementing strategies for improved coordination between activities funded under this Act and other public and private services for youth and their families; and

(2) submit a copy of any reports required under subsection (c)(3)(F) to the Federal Council on Children, Youth, and Families, concurrently with the submission of the report to the President and the Congress.

(e) STAFF AND CONSULTANTS.—

(1) STAFF.—

(A) IN GENERAL.—The National Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(B) COMPENSATION.—The National Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(2) CONSULTANTS.—The executive director may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of such title.

(3) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Director and the head of the Federal agency, any of the personnel of that department or agency to the National Commission to assist the Commission in carrying out the duties of the Commission under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.●

● Mr. DODD. Mr. President, I offer my support for the measure being introduced by my distinguished colleague from Kansas, Senator KASSEBAUM. The Youth Development Block Grant is a response to what I see as a gaping hole in Federal policy. We focus a lot of attention on youth when their behavior becomes a problem for society or a threat to its peace of mind. But we do very little to help youth—especially

those at particular risk—find alternatives to the streets that will help them grow into productive citizens.

For the past 2 weeks, we have heard much about the consequences of not providing those alternatives. Youth increasingly are becoming both footsoldiers and gun fodder for a war taking place on our streets. I firmly believe we must crack down on the crime that has laid siege to many of our communities. But I believe just as firmly that we must act to prevent youth from becoming involved in crime. We must reach out to them before they are reached by gangs and the lure of the streets.

Crime and violence are not the only problems facing our young people. Children are trying alcohol and other drugs at increasingly younger ages. Seventy-seven percent of eighth graders report having tried alcohol. Half a million teens give birth each year, most out of wedlock, placing the futures of both mother and child at risk.

It is a complex world these children face, and there are few guideposts and helping hands to help them navigate it. There is an old African proverb that says: "It takes an entire village to raise a child." Far from being nurtured by their communities, however, too many children are being left to raise themselves. They are spending greater amounts of time with no adult supervision. Children in poor neighborhoods are most at risk and least likely to find the social supports they need to traverse safely into adulthood.

Mr. President, in hearings before the Subcommittee on Children, which I chair, and in meetings with young people from my home State of Connecticut, I always ask what young people themselves recommend to prevent our youth from getting into trouble. I hear an amazing variety of answers. But one theme I hear consistently. They say there is nothing to do after school, no where to go but home or the streets. They are yearning for positive activities and influences in their lives. But all too often, they find gyms closed, school doors locked, and recreation programs that have gone begging for resources.

I have long been an advocate of approaching the needs of our children and youth from the standpoint of prevention. In 1990, Congress enacted the Young Americans Act, which I authored and on which I worked closely with Senator KASSEBAUM. This legislation was designed to promote a cohesive approach to planning and providing services for children and established Federal and State coordinating mechanisms for youth policy.

The anti-crime legislation the Senate adopted just today included several measures to prevent problems among youth. My Ounce of Prevention Council included in that bill will help us cut through the bureaucratic turf issues to fund innovative community efforts to give youth positive alternatives.

We must keep pushing to bring attention to the needs of our youth. The reasons should be obvious to all, but I will go over them once again. If the youth of today are going to be the productive citizens of tomorrow who will ensure that our Nation is competitive, they must have a good foundation. They must see opportunities. They must realize there are alternatives that lead somewhere productive—alternatives to mean streets that can only end up in blind alleys.

That is why I am cosponsoring the Youth Development Block Grant Senator KASSEBAUM is introducing today. It is built around the idea that communities, working with families, must make a concerted effort to provide youth with experiences that will lay a strong foundation for the adult roles they will need to assume. Its basic premise is that the needs of our youth must become a priority for our Nation—not just when we realize the need to get the Uzis out of their hands or get them off welfare—but early on, when these problems can be prevented.

This block grant would draw on the experiences of the community-based youth organizations that crafted the legislation—the YMCA's and YWCA's, the Boys and Girls Clubs, Big Brothers/Big Sisters, Boys and Girl Scouts, Camp Fire Boys and Girls, 4-H, the American Red Cross, Junior Leagues, the Salvation Army, Girls, Inc., WAVE, the National Network of Runaway and Youth Services and the Child Welfare League. Over the years, these organizations have contributed much to providing youth with positive developmental programs. They are to be commended for their advocacy on behalf of young people and their diligent efforts in developing this legislation

This legislation is not a final product. For example, I think that we can better streamline the administrative structure through which funds would flow. I also would like to see greater flexibility on who the participants will be at the local level. For example, other community-based organizations such as schools, churches, parks and recreation departments have some terrific programs out there on which we should also capitalize.

Finally, while I think a flexible, community-based program might better serve the needs of youth than some of the small categorical programs we currently have, I want to carefully review the effectiveness of existing programs as part of the discussion of consolidation. I am confident that these issues and others can be addressed as the Congress seeks to craft legislation responsive to our Nation's youth.

This legislation provides an important recognition of a critical issue facing the country. I am encouraged that those of us in Congress and elsewhere have a growing awareness that we ignore the needs of our youth at our own peril and that the solutions to these problems must come from the communities themselves. Perhaps we are recognizing that, like the proverbial African village, it takes the entire nation to raise a generation well prepared for the future. I am excited about this movement and eager to join Senator KASSEBAUM and other colleagues who also care deeply about giving youth the positive alternatives and opportunities they deserve.•

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By Mr. GLENN:

S. 1747. A bill to provide for enforcement of State court judgments against federally forfeited assests of individuals who are delinquent in payment of child support; to the Committee on the Judiciary.

THE CHILD SUPPORT FAIRNESS ACT OF 1993

• Mr. GLENN. Mr. President, I introduce the Child Support Fairness Act of 1993. This legislation is intended to cure a serious defect in current law that serves as a barrier to the collection of rightfully-owned child support. Under current law, Uncle Sam acts more like an accomplice to a deadbeat dad, than a friend to a deserving mother.

My legislation would allow the Federal Government to satisfy a valid state court judgment for back child support from funds that were forfeited by a delinquent parent due to violation of Federal laws.

Mr. President, the collection of child support payments in America is in a deplorable state. It is estimated that over 17 million children are owed in excess of $20 billion in unpaid child support. Fathers, and sometimes mothers, all too frequently disregard their moral and legal responsibilities. The children are the one's who suffer.

The need for this legislation came to my attention through a tragic situation involving a woman in Warren County, OH. The woman's former husband was arrested entering the United States after failing to declare the full amount of money he was carrying. On his arrest, the Customs Department seized close to $30,000. During the course of the criminal proceeding the former wife obtained a valid State court judgment for $7660.26 in back child support. Customs officials acting in accordance with Federal law, refused to satisfy the State court judgment. At the final disposition of this case, not one penny of the $40,000 went to the children.

My legislation, unfortunately, won't help these children. And it comes too late to help many others who have gone penniless when their deadbeat dads have been arrested, and thousands of dollars that were rightfully theirs were forfeited.

Sure, not every person who has property confiscated will be a deadbeat dad.

But surely, those who would break our Federal drug and customs laws would not hesitate to violate State child support laws.

My legislation will amend current law so that the U.S. Government never again will have to say "no" to a deserving child. Assets that are seized and forfeited by the Federal Government will be subject to valid State court judgments for payment of back child support.

Current law allows for payment to innocent third party owners of forfeited property. Several States allow former spouses owed back child support to bring petitions as third party owners of forfeited property. Children owed money for back child support clearly are innocent third party owners. Unfortunately, they are also third party victims.

For too long, governments have ignored the needs and rights of children. Children are all too often pawns in disputes between parents. They are the victims of "financial abuse". This legislation is not a panacea. But without it, many children will continue to go without financial support that is just at their fingertips. Right now, only government red tape stands in the way. It's high time we cut through that red tape.

Under my bill, the Department of Justice and the Department of the Treasury will be required to notify the Department of Health and Human Services when property is seized. HHS will in turn notify the State where the obligor had his or her last known address. The burden rests with the State child support enforcement agency to notify a resident who is owed child support that the obligee has had assets seized and forfeited.

It is my hope that a comprehensive, nation-wide tracking system will soon be in place. Such a system would allow for a streamlined, cross check of deadbeat dads and those who have had their assets forfeited. This type of system would serve as the center piece for implementation of my legislation.

Mr. President, this legislation is a first step on the road to fairness and justice for our children. I look forward to working with my colleagues toward enactment of this bill in this coming session of Congress.●

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By Mr. PACKWOOD (for himself, Mr. BREAUX, Mr. HEFLIN, and Mr. MURKOWSKI):

S. 1749. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers, and importers from the firearms excise tax; to the Committee on Finance.

RELIEF FROM THE FIREARMS EXCISE TAX

● Mr. PACKWOOD. Mr. President, today I am introducing legislation to exempt custom gunsmiths—those who produce less than 50 firearms a year—from the firearms excise tax in section 4182 of the Internal Revenue Code.

This bill is similar to a bill I introduced in April 1991. That bill was incorporate into the H.R. 11, the Revenue Act of 1992. Unfortunately, the Revenue Act of 1992 was vetoed by President Bush.

This bill merely incorporates into the tax code a policy previously adopted by the Congress. In 1982, the Congress passed a supplemental appropriations bill, Public Law 97-276, which prohibited the Bureau of Alcohol, Tobacco and Firearms (BATF) from collecting the firearms excise tax from producers of less than 50 firearms a year.

In recent years, the BATF has taken the position that the 1982 custom gunsmith provision expired at the end of fiscal year 1982 (September 30, 1983). I believe the intent of the 1982 law was to establish a permanent ban on the collection of the firearms excise tax from a custom gunsmith.

Custom gunsmiths are a special kind of craftsman. They make high quality, typically one-of-a-kind, firearms. They make very few firearms each year—less than 50. Often, many years may have passed before the custom gunsmith becomes aware of the firearms excise tax. The information needed for compliance with the tax is long gone. Moreover, it is an administrative headache for the BATF to locate and collect the firearms excise tax from someone who only makes a few firearms a year.

My bill clears up the controversy over the 1982 law by adding to the tax code an explicit exemption for custom gunsmiths, effective for firearms sold after October 1, 1983.

I hope my colleagues will join me and cosponsor this measure to clarify the excise tax rules for America's custom gunsmiths.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1749

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.**

(a) IN GENERAL.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) (b) of section 52 shall be treated as one person for purposes of paragraph (1)."

(b) EFFECTIVE DATE; REFUNDS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.●

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By Mr. METZENBAUM:

S. 1750. A bill to transfer certain food safety and inspection functions to the Consumer Product Safety Commission, to establish an Office of Public Liaison, and to require the development of certain plans, and for other purposes.

FOOD SAFETY REFORM ACT OF 1993

Mr. METZENBAUM. Mr. President, I rise today to introduce the Food Safety Reform Act of 1993. The purpose of this bill is to consolidate responsibility for the Nation's food safety under one roof, and to make public health and the needs of consumers the top priorities of food inspectors and regulators.

There are several systemic, governmentwide problems with respect to food safety which this bill will address.

First and foremost, there is an attitude problem among food safety regulators, in particular, the Food Safety and Inspection Service. FSIS is part of the Department of Agriculture—USDA. USDA's central mission is the promotion of U.S. food production, processing and sales. I think that is a wonderful mission. American farmers need all the help they can get, and the food industry is among the Nation's leading employers.

Yet, there is a conflict in missions. How can FSIS, an organ of USDA, be a tough regulator of the food industry when its parent agency, USDA, is dedicated to promotion of the food industry?

Mr. President, I do not believe that regulation and industrial growth are mutually exclusive. But it seems to me that every time food regulation gets in the way of the food industry, industry always wins. The culture of FSIS is too accommodating of food processors, and too unwilling to take a tough stand and stick with it.

Mr. President, the second governmentwide problem is that food safety is explicitly or implicitly considered a matter of animal science, or of manufacturing science.

There is no question that what happens to animals and produce during

breeding and processing are key factors in food safety. But they are not the primary factors.

Human health is what food safety is all about. Human health is the reason we are spending $2 billion annually on food safety. Human health must be the standard against which all food safety decisions are tested. This is not the case today.

Finally, Mr. President, food safety has become a bureaucratic football. There are too many agencies enforcing too many statutes. The overlapping responsibilities and regulations are tripping up American food producers, while failing to produce better food safety for American consumers.

Mr. President, with these big picture matters in mind, I drafted the Food Safety Reform Act of 1993. This bill will consolidate responsibility for food safety under the Consumer Product Safety Commission [CPSC]. I do not contemplate the physical relocation of the many thousands of Federal workers involved in food safety. Rather, I want the CPSC to take responsibility for setting policy and priorities, for enforcement, and for personnel matters.

I believe that centralizing responsibility for food safety in an agency whose priority, since its founding, has been protection of consumers, will go a long way toward correcting the "attitude problem" of food safety regulators. Also, by consolidating authority for food safety, there can be no more "buck-passing," no more quarrels over turf. This bill creates a new feature for U.S. food safety regulation: Accountability.

My bill also requires establishment of an Office of Public Health Liaison within the CPSC. Too often, food safety agencies fail to consult with Federal and State public health officials. There is an abundance of data that can be put to better use, if only the lines of communication are opened up.

I want the Office of Public Health Liaison to be an effective force. To this end, the bill requires the chairman of the CPSC to conclude memoranda of understanding with a range of Federal and State agencies in order that exchange of public health data is no longer a matter of discretion.

This bill also requires the CPSC to report to Congress with a unified, comprehensive plan for modernizing the American food safety system. With fits and starts, different agencies are currently plodding toward post 1950's food safety technology. Innovation that has meaning for American consumers can only come if the entire food safety system modernizes in a coordinated fashion. Consumers will be no safer if poultry inspectors are equipped with the latest technology, but fish inspectors are left using their eyes and noses to ensure wholesomeness. Americans simply do not eat in a compartmented fashion, so food safety modernization cannot be carried out in a compartmented fashion.

Finally, Mr. President, this bill requires the CPSC to report on its plans for establishing a comprehensive food safety data base. The fact of the matter is that we know very little about infectious doses of food-borne contaminants. We know very little about how contaminants are transmitted. We know very little about how to detect contaminants in a prompt, affordable manner. The fact is that before spending substantial sums modernizing our food safety system, we ought to have the scientific data on which to base our decisions.

Mr. President, I am frank to tell my colleagues that food safety is not an issue on which I have always dreamed of legislating. It is not an issue which I studied in school or was involved in during my years as a private citizen.

I have involved myself in food safety because the need for reform has become so obvious, while the impediments to reform have grown so large.

Mr. President, for nearly a decade, we have debated the condition of our food safety system. The battle lines have rarely changed, and neither have the issues.

Everyone agrees that our food safety system needs to be overhauled. Yet no one seems willing to take on the challenge of radical reform.

Everyone agrees that our food inspection system is based on 1950's technology. Yet no one is setting the right priorities for research.

Everyone agrees that authority for ensuring a safe food supply is fragmented all over the Federal bureaucracy. Yet no one is willing to give up their turf in order that a more coordinated system can be established.

Mr. President, whether the issue is research, inspection, oversight or consumer education, the right hand of our food safety bureaucracy never seems to know what the left hand is doing.

We have something like 12 agencies enforcing nearly 20 different legislative acts. There is bureaucratic infighting and miscommunication. The food safety leadership seems to be afflicted with revolving door syndrome so common to the Defense Department: Regulatory agencies seem to care more for the concerns of industry, than the concerns of their customers. In this case, the customer is the American consumer. I am not sure that this fact is clearly understood any more.

Mr. President, my concern stems from some disturbing patterns I have noticed. When problems are brought to the attention of regulators, or to the attention of producers and processors, they all seem to replay set answers over and over again.

They say we have the safest food supply in the world. Fine. Then should we rest on our laurels while, according to the centers for disease control, 4 million Americans per year are sickened by food-borne diseases, and another 2,000 die from them?

They say that the current inspection system, in which each animal carcass is viewed by a USDA inspector, is getting the job done. What they don't say is that most food-borne disease today comes from microscopic bacteria. To the alleged efficacy of visual inspection, I say, big deal. Carcasses today need to be microscopically, or chemically inspected.

They say that all the stories of food contamination are the product of media hype or of organized labor agitation. I do not doubt that the media is interested in food safety, since it is an issue affecting every single American. I would hope that the media is interested. And I do not doubt that labor is interested in the food industry: Food processing is, statistically, as dangerous an occupation as mining.

To brush off complaints about food safety as media or labor hype is just too easy an answer. It's an excuse, and I don't buy it.

Finally, regulatory and industry will say that the consumer is ultimately responsible for the safety of his or her food. This argument is probably the most galling one of all.

Sure, consumers need to be smart.

Sure, they need to cook meat thoroughly, or treat canned products with care. But the American kitchen is not a laboratory, and the American consumer is not an epidemiologist.

Consumers' common sense will take care of run-of-the-mill contaminants in food. No food product is sterile, and it is unreasonable to seek purity from our inspection system.

But the simple fact is that as a larger percentage of our food supply is contaminated with pathogens of increasing variety and quantity, more people are going to get sick.

An added factor is that a growing number of Americans suffer from so-called immuno-suppression maladies such as AIDS and hepatitis. The elderly also have weaker immune systems, and many more Americans are growing older.

People in these groups are at a greater risk of contracting food-borne illnesses, and of being more severely affected by them.

To me, it is an explosive combination. More people are becoming susceptible to food-borne disease, and the amount of disease being carried by food is also increasing.

So the notion that food safety is the consumer's problem is bunk, pure and simple. It is an excuse for maintaining the status quo, for maintaining the comfortable relationship that has developed between the regulator and the regulated.

To be sure, I cannot look my constituents in the face and tell them that

they are responsible for food safety after their Government spends upwards of $2 billion annually on food safety.

Mr. President, the lack of action on food safety certainly does not result from a lack of independent, expert opinion on the matter. Since 1985, there has been a virtual parade of studies by the respected National Academy of Sciences. By the General Accounting Office, and by a host of other groups.

In 1985, the N.A.S. published "Meat and Poultry Inspection: The Scientific Basis for the Nation's Program." This study documented the gap between modern processing techniques and the antiquated meat and poultry inspection system.

Then in 1987, N.A.S. focused on food safety in the chicken industry. In "Poultry inspection: The basis for a risk-assessment approach" the Academy's food and nutrition board described how poorly deployed were our inspection resources in poultry plants. As chickens whiz by at speeds up to 30 birds per minute, poultry inspectors are supposed to be able to pronounce the product wholesome and worthy of the USDA seal of approval."

A 1988 N.A.S. report entitled "Designing Foods: Animal Product Options in the Marketplace" identified the range of innovative managerial, scientific and processing techniques that could be applied to food production and inspection.

Then, in 1990, the National Academy was called on to "evaluate the success of its own evaluation". In "cattle inspection: evaluation of streamlined inspection system," The N.A.S. outlined how dangerous the USDA's "streamlined inspection system" was for meat and poultry. But the Academy went on to review, point-by-point, how well its own 1985 recommendations had been implemented by the Food Safety and Inspection Service. FSIS received a failing grade.

If the National Academy of Sciences' work hasn't been enough, the General Accounting Office has also looked into America's food safety mess.

A 1990 GAO report was appropriately entitled, "Food Safety and Quality: Who does what in the Federal Government." To cover this topic GAO filled two volumes.

In 1992, GAO echoed the National Academy's calls for better science in food inspection. Its report, "Uniform Risk-based Inspected need to ensure safety food supply," Pointed out the "inconsistencies and illogical differences" in food safety enforcement. The GAO pointed out that responsibility for inspection is often determined by administrative factors, as opposed to good science and good policy. For example, meat and poultry processors are inspected daily, although with archaic techniques. Fish processors, on the other hand, may be inspected only once every 3 to 5 years. There is no scientific basis for this disparity.

GAO's most recent study, issued in July 1993, is a classic understatement. It is titled "Innovative Strategies May Be Needed To Regulate New Food Technologies." Think that innovative strategies are needed to regulate all food technologies, new and old.

Mr. President, I am introducing the Food Safety Reform Act of 1993 because I am sick and tired of NAS and GAO studies piling up and collecting dust. I am sick and tired of hearing about children being hospitalized during E. coli outbreaks in beef, or about the growing threat of salmonella in poultry. I am sick and tired of hearing those responsible for food safety pass it off as labor and media hype. And I am sick and tired of hearing that food safety is the problem of American consumers.

Finally, Mr. President, I would note that the Food Safety Reform Act will not be the only measure of its type pending before Congress.

Senator DURENBERGER has introduced legislation which would create an entirely new food safety agency. I like the bold nature of the Durenberger proposal. However, I am afraid that I do not like the potential cost. Reforming food safety will be expensive enough without creating yet another bureaucratic entity. My bill leaves the bureaucrats in place, but centralizes responsibility for their management. This, I believe, will be significantly less expensive than setting up another agency.

Vice President GORE also has a proposal, delivered as part of the National Performance Review. Mr. GORE has proposed that FSIS, the USDA agency responsible for meat and poultry inspection, be transferred to the Food and Drug Administration. The Vice President's proposal has the benefit of making meat and poultry inspection part of a public health agency. However, it fails to address the many other food safety functions spread out among a variety of other agencies. In addition, I believe that the FDA is already overburdened with its primary responsibility as a drug and medical device regulator.

The Food Safety Reform Act of 1993 takes a middle road between the Gore and Durenberger proposals. It is intended to be as comprehensive as DURENBERGER's Super Food Agency, but with the lower cost of GORE's transfer of regulatory authority.

Mr. President, I look forward to working with Senator DURENBERGER, with the Vice President, and with all others interested in fixing the American food safety mess. We have been remiss in our responsibility to the American consumer, and it is about time we act to restore confidence in our food safety system.

Mr. President, I ask unanimous consent that a copy of the Food Safety Reform Act of 1993 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1750

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Food Safety Reform Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; Table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—TRANSFER OF FOOD SAFETY AND INSPECTION FUNCTIONS

Sec. 101. Transfer of food safety functions to the Consumer Product Safety Commission.
Sec. 102. Personnel provisions.
Sec. 103. Delegation and assignment.
Sec. 104. Reorganization.
Sec. 105. Rules.
Sec. 106. Transfer and allocations of appropriations and personnel.
Sec. 107. Location of personnel.
Sec. 108. Determination of certain functions and incidental transfers.
Sec. 109. Effect on personnel.
Sec. 110. Savings provisions.
Sec. 111. Separability.
Sec. 112. Transition.
Sec. 113. References.
Sec. 114. Conforming amendments.

TITLE II—SPECIFIC FUNCTIONS OF THE COMMISSION AFTER TRANSFER

Sec. 201. Appointment of an Executive Director for safety.
Sec. 202. Preparation of a memorandum of understanding.
Sec. 203. Plans.

TITLE III—ESTABLISHMENT OF A LIAISON OFFICE

Sec. 301. Establishment of the Office of Public Health Liaison.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Reports.
Sec. 402. Authorization of appropriations.
Sec. 403. Effective date.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) American consumers are entitled to a safe supply of food, which requires no more than reasonable and proper care to maintain its wholesomeness;

(2) the United States Government's system for ensuring food safety is outdated, is fragmented, and is not yielding a level of wholesomeness commensurate with the resources being devoted to the system;

(3) American consumers' confidence in their food supply is undermined by the condition of their Government's food safety regulatory system;

(4) demographic changes in the United States will increase the threat of foodborne diseases to a growing number of American consumers;

(5) the paramount priority of the food safety system is human health;

(6) the paramount interests to be protected by the food safety system are the interests of the American consumer;

(7) the food safety system has not responded to the presence of new contaminants and new modes of transmission of infection;

(8) food safety regulators have not adequately taken advantage of potential innovations in food inspection techniques;

(9) food safety regulators have not developed a sufficiently reliable, independently verified scientific basis for modernization of the food safety system;

(10) as currently constituted, the United States food safety system is not capable of responding to food safety challenges in a coordinated, comprehensive and efficient manner; and

(11) the purposes of this Act can be satisfactorily achieved without the physical relocation of entities and personnel currently constituting the United States food safety system.

**SEC. 3. PURPOSES.**

The purposes of this Act are to—

(1) consolidate fragmented Federal authority for inspection and regulation of the United States' food supply under the Consumer Product Safety Commission;

(2) focus the food safety and inspection system of the United States on the needs of the American consumer;

(3) make public health the primary criterion in the evaluation of the United States' food safety and inspection system;

(4) provide for coordinated, efficient modernization of the system; and

(5) improve cooperation among Federal, State, and local agencies involved in ensuring food safety and public health.

**SEC. 4. DEFINITIONS.**

As used in this Act (unless the context clearly requires otherwise):

(1) CHAIRMAN.—The term "Chairman" means the Chairman of the Consumer Product Safety Commission.

(2) COMMISSION.—The term "Commission" means the Consumer Product Safety Commission.

(3) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code.

(4) FUNCTION.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(5) OFFICE.—The term "office" includes any office, administration, agency, department, institute, unit, organizational entity, or component thereof.

## TITLE I—TRANSFER OF FOOD SAFETY AND INSPECTION FUNCTIONS

**SEC. 101. TRANSFER OF FOOD SAFETY FUNCTIONS TO THE CONSUMER PRODUCT SAFETY COMMISSION.**

(a) IN GENERAL.—There are transferred to the Commission all functions exercised before the effective date of this Act (including all related functions of any office or employee) of or relating to food safety and inspection carried out by—

(1) the Secretary of Agriculture or the Department of Agriculture under—

(A) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(B) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.); and

(D) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(2) the Secretary of the Interior or Department of Interior, or the Secretary of Commerce or the Department of Commerce under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) ;

(3) the Commissioner of Food and Drugs and the Secretary of Agriculture under the Federal Anti-Tampering Act (18 U.S.C. 1365 et seq.);

(4) the Administrator of the Environmental Protection Agency or the Environmental Protection Agency under—

(A) title 14 of the Public Health Service Act, commonly known as the "Safe Drinking Water Act" (42 U.S.C. 300f et seq.); and

(B) section 408 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a), and related provisions of law;

(5) the Secretary of Commerce or the Department of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(6) the Secretary of Health and Human Services or the Department of Health and Human Services under—

(A) the Import Milk Act (21 U.S.C. 141 et seq.);

(B) section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a), and related provisions of law; and

(C) the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) respecting—

(i) labeling of foods; and

(ii) setting standards of identity, quality, and fill of container for food products.

(b) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Commission shall carry out the functions transferred under subsection (a).

**SEC. 102. PERSONNEL PROVISIONS.**

(a) APPOINTMENTS.—

(1) IN GENERAL.—The Chairman may appoint and fix the compensation of such officers and employees (including investigators, attorneys, and administrative law judges) as may be necessary to carry out the respective functions transferred under this title.

(2) CIVIL SERVICE.—Except as otherwise provided by law, the officers and employees shall be appointed in accordance with the civil service laws and the compensation of the officers and employees fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—To carry out this title, the Chairman may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate the experts and consultants for each day (including travel time) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title.

(2) TRAVEL EXPENSES.—To carry out this title, the Chairman may pay experts and consultants who are serving away from their homes or regular places of business travel expenses and a per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

**SEC. 103. DELEGATION AND ASSIGNMENT.**

(a) IN GENERAL.—Unless otherwise expressly prohibited by law or otherwise provided by this Act, the Chairman may delegate any of the functions transferred by this title, and any function transferred or granted after the effective date of this Act, to such officers and employees of the Commission as the Chairman may designate, and may authorize successive redelegations of the functions as may be necessary or appropriate.

(b) CONTINUING RESPONSIBILITY.—No delegation of functions by the Chairman under this section or under any other provision of this Act is intended to relieve the Chairman of responsibility for the administration of the functions.

**SEC. 104. REORGANIZATION.**

The Chairman is authorized to allocate or reallocate any function transferred under this title among the officers of the Commission, and to establish, consolidate, alter, or discontinue such organizational entities in the Commission as may be necessary or appropriate.

**SEC. 105. RULES.**

The Chairman is authorized to prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Chairman determines to be necessary or appropriate to administer and manage the functions of the Commission.

**SEC. 106. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.**

(a) IN GENERAL.—Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred in accordance with this title.

(b) USE OF FUNDS.—Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

**SEC. 107. LOCATION OF PERSONNEL.**

During the fiscal year in which this Act is enacted, the Chairman shall enter into a lease agreement with the head of each transferred agency for the provision, by each such agency, of space and support services for personnel who are transferred under this Act.

**SEC. 108. DETERMINATION OF CERTAIN FUNCTIONS AND INCIDENTAL TRANSFERS.**

(a) IN GENERAL.—The Director of the Office of Management and Budget, at such time as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions, as may be necessary to carry out this title.

(b) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities of which all functions are transferred by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

**SEC. 109. EFFECT ON PERSONNEL.**

Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions is not intended to cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of the employee under this title.

**SEC. 110. SAVINGS PROVISIONS.**

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—An order, determination, rule, regulation, permit, agreement, grant, contract, certificate, license, registration, privilege, or other administrative action—

(1) that has been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this title; and

(2) that is in effect at the time this Act takes effect, or was final before the effective date of this Act and is to become effective on or after the effective date of this Act,

shall continue in effect according to the terms of the action until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, an official of a Federal agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—

(1) IN GENERAL.—This title shall not affect any proceeding (including a notice of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending before a transferred office on the effective date of this Act, with respect to functions transferred by this title. The proceeding and application shall be continued.

(2) ORDERS.—An order shall be issued in the proceeding, an appeal shall be taken from the order, and a payment shall be made pursuant to the order, as if this Act had not been enacted. An order issued in the proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this subsection is intended to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent as the proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect a suit commenced before the effective date of this Act. In the suit, a proceeding shall be had, an appeal taken, and a judgment rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against a transferred office, or by or against any individual in the official capacity of the individual as an officer of a transferred office, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by a transferred office relating to a function transferred under this title may be continued by the Commission with the same effect as if this Act had not been enacted.

**SEC. 111. SEPARABILITY.**

If a provision of this Act or the application of this Act to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

**SEC. 112. TRANSITION.**

The Chairman is authorized to utilize—

(1) the services of the officers, employees, and other personnel of a transferred office with respect to functions transferred by this title; and

(2) funds appropriated to the functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

**SEC. 113. REFERENCES.**

Each reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the head of a transferred office with regard to functions transferred under this title shall be deemed to refer to the Chairman; and

(2) a transferred office with regard to functions transferred under this title shall be deemed to refer to the Commission.

**SEC. 114. CONFORMING AMENDMENTS.**

Not later than 180 days after the effective date of this Act, if the Chairman determines (after consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget) that technical and conforming amendments to Federal statutes are necessary to carry out the changes made by this Act, the Chairman shall prepare and submit to Congress recommended legislation containing the amendments.

## TITLE II—SPECIFIC FUNCTIONS OF THE COMMISSION AFTER TRANSFER

**SEC. 201. APPOINTMENT OF AN EXECUTIVE DIRECTOR FOR SAFETY.**

(a) IN GENERAL.—There is established in the Commission the position of an Executive Director of Food Safety, who shall be appointed by the Chairman.

(b) DUTIES.—The Executive Director of Food Safety shall perform such responsibilities as the Chairman shall prescribe.

(c) COMPENSATION.—The Executive Director of Food Safety shall be compensated at a rate of pay fixed by the Chairman.

**SEC. 202. PREPARATION OF MEMORANDUM OF UNDERSTANDING.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman shall enter into a separate memorandum of understanding with each of the following to carry out the objectives described in subsection (b):

(1) The Secretary of Health and Human Services.

(2) The Administrator of the Occupational Safety and Health Administration.

(3) The Secretary of Commerce.

(4) The Secretary of Defense.

(5) Executive officers of State health departments.

(6) The head of any other governmental entity as determined necessary by the Chairman.

(b) OBJECTIVES.—The Chairman and each entity that enters into a memorandum of understanding under subsection (a) shall carry out the following objectives, respecting food safety and inspection:

(1) Regular exchange of food safety and inspection information and scientific data among entities under a memorandum of understanding.

(2) Full access, on demand by an entity under the memorandum of another entity that entered into the memorandum, to all information and scientific data required under this Act.

(3) Ensuring the best reasonable safety for government and private employees involved in the production, shipping, processing, inspection, or any other function of the food production process.

(4) Conducting interagency regulation of food processing and production in the most comprehensive and consistent manner.

**SEC. 203. PLANS.**

(a) PREPARATION AND SUBMISSION OF A DATABASE PLAN.—Not later than 1 year from the date of enactment of this Act, the Chairman shall prepare and submit to the appropriate committees of the Senate and the House of Representatives a plan for the development of a comprehensive nationwide food safety database and surveillance system. The surveillance system developed under the plan shall include—

(1) a determination of infectious doses of common foodborne pathogens for all potential patient populations;

(2) public health protocols to standardize and improve the reporting of outbreaks of foodborne illness by local public health authorities to the Centers for Disease Control; and

(3) such other requirements the Chairman determines necessary.

(b) PREPARATION AND SUBMISSION OF A TECHNIQUE PLAN.—Not later than 1 year from the date of enactment of this Act, the Chairman shall prepare and submit to the appropriate committees of the Senate and the House of Representatives, a plan for the innovation and implementation of food safety and inspection techniques, including techniques of hazard analysis of critical control points, rapid pathogen detection, trace-back technology, irradiation of foods, and such other techniques the Chairman determines necessary.

## TITLE III—ESTABLISHMENT OF A LIAISON OFFICE

**SEC. 301. ESTABLISHMENT OF THE OFFICE OF PUBLIC HEALTH LIAISON.**

(a) IN GENERAL.—There is established within the Commission an Office of Public Liaison.

(b) FUNCTIONS.—The Office of Public Liaison shall provide information and advice, with respect to food safety and inspection, to agencies of the United States Public Health Service, the National Academy of Sciences, State and local public health agencies, and academia, and shall carry out such other activities as the Chairman determines necessary.

## TITLE IV—GENERAL PROVISIONS

**SEC. 401. REPORTS.**

On the date that is 1 year after the date of the enactment of this Act, and 3 years thereafter, the Chairman shall report to Congress on the estimated additional cost of implementing this Act.

**SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

**SEC. 403. EFFECTIVE DATE.**

Except for sections 107, 108, 202, and 203, which shall become effective on the date of enactment, this Act shall become effective on the earlier of—

(1) such date during the 180-day period beginning on the date of enactment of this Act as the President may direct in an Executive order; or

(2) the date that is 180 days after the date of the enactment of this Act.•

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By Mr. MCCAIN:

S. 1751. A bill to amend the National Wool Act of 1954 to provide that the reduction in the support price for wool and mohair programs do not apply to households who are participating, or are eligible to participate, in the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

LOW-INCOME WOOL PRODUCERS LEGISLATION

• Mr. MCCAIN. Mr. President, I am introducing legislation today to protect the poorest Americans who participate in the Federal Wool and Mohair Program. I am deeply concerned about the economic impact that a total elimination of this program will have on the thousands of wool and mohair producers who live below the Federal poverty line.

My legislation would allow wool and mohair producers who receive or are eligible for food stamps to continue to receive payments from the Department of Agriculture for the production of wool and mohair without any reductions. Legislation recently signed into law will phase out the Wool and Mohair Program by 1997, and payments to producers will be significantly cut in 1995 and 1996.

The validity and cost of the Wool and Mohair Program was the subject of considerable scrutiny and debate in the Congress this year, and understandably so. At a time of massive Federal budget deficits and increasing burdens on our Nation's taxpayers, it is imperative the Congress take decisive action to reduce spending on a wide range of Federal programs. I believe the Wool and Mohair Program, which cost taxpayers $191 million in 1992, is one of them.

However, there is one aspect of the Wool and Mohair Program that I feel is very important, and merits careful consideration of the Congress. In the West, there are thousands of native Americans who receive very small payments each year for the wool and mohair they produce. These native Americans are often very poor, and the modest amount of money they receive from the Federal Government helps them put food on the table for their children and families. I think it would be a grave mistake for the Congress to ignore the plight of these impoverished citizens and cause them unnecessary economic injury.

A few facts on the profiles of the native Americans who participate in the Wool and Mohair Program should be of interest. In New Mexico, Arizona, and Utah there were 6,799 members of the Navajo Nation who received assistance from the Wool and Mohair Program in 1992. The average payment received by Navajo wool producers was $206 in 1992, and Navajo mohair producers received an average of $178.67. Since producers of one of these commodities on the reservation usually also produces the other, the average payment to Navajos from the Wool and Mohair Program last year was $385.

As you can see, the Navajo's who participate in the Wool and Mohair Program are not receiving substantial amounts of money. They are certainly not receiving the tens of thousands of dollars that have been previously allocated by the USDA to many large producers in the West. Those payments—including some as high as several hundred-thousand dollars—cannot be justified, and the time has certainly arrived to end them.

Furthermore, according to the Navajo Nation's Grazing Committee, "the average Navajo producer owns 40 sheep and 30 goats. While small, many Navajo families rely heavily on their herds of sheep and goats as their main sources of income." It is quite clear that these are low-income, family ranchers who probably have been tending sheep for generations, as did their ancestors.

Tending small herds of sheep and goats is often the only economic enterprise these native Americans can engage in. They live in areas of the West where there are virtually no other means to provide for themselves and their families. Life on many of the Indian reservations in America can be extremely difficult, and many of the citizens of our country would be jarred by the circumstances that many native Americans endure day after day.

The Federal Government consigned native Americans to areas of our country where there is little economic growth and decent job opportunities, and I firmly believe we have a special obligation to help them as a result. At the very least, we should not cause native Americans further economic pain, and totally eradicating the Wool and Mohair Program would do just that.

It is inarguable that Native Americans face some of the most dire economic and social circumstances of any people in the United States. The facts are disturbing:

The average per capita income of the Navajo Nation is only $4,106, one-fourth less than the average American.

Unemployment on reservations averages four-to-five times that of other regions of the United States, and the percentage of Navajos living in poverty is an astounding 56.1 percent, four times higher than the rest of the country.

More than 15 percent of Indian homes lack basic sanitation facilities, a rate eight times worse than the rest of the United States.

There are also native Americans from other tribes in the States of Colorado, Wyoming, and South Dakota that receive wool and mohair payments. It is important to point out, however, that the legislation I am introducing today does not preserve wool program benefits for individuals on the basis of ethnicity or region of the country in which they live. My legislation would simply allow any wool and mohair producer who receives or is eligible for food stamps to continue to receive payments under the existing formula.

This legislation would allow wool program participants who qualify for food stamps to continue receiving payments without having their payments reduced in 1995 and 1996, as the recently enacted wool program legislation mandates. When the program is effectively terminated after payments are distributed in 1996, my legislation would permit these low income participants to continue receiving wool and mohair payments.

The cost of this legislation would be extremely small in view of the current cost of the Wool and Mohair Program. Last year, the wool program cost taxpayers $191 million. The total amount of wool and mohair payments paid out to native Americans in the West in 1991 was approximately $2.3 million. This is only 1.2 percent of the entire cost of the program.

As you can see, I seek to preserve only a very small segment of the wool program as we know it today.

I believe this small segment of the wool program is well worth saving. While I am most familiar with the importance of these payments to native Americans, any producer whose income qualifies them for food stamps would continue to receive wool payments under this legislation.

In order to ascertain exactly how much this bill would cost, I have asked the Secretary of Agriculture to provide me with precise figures on how many wool and mohair producers have incomes below the poverty line. I am awaiting this information and will make it available to my colleagues as soon as I receive it.

Based upon research and my discussions with tribal officials, however, I think it is reasonable and accurate to estimate that my legislation would continue payments in the range of $2 million per year. That means the adoption of this legislation would still permit the current cost of the wool program to be reduced by over 98 percent.

At the same time, we will be preserving critical assistance to poor families whose lives are already difficult enough. We should not look away from the injury these proud and hard-working people will endure as a result of a total elimination of the wool program.

I look forward to having this proposal evaluated by the Senate, and I urge all of my colleagues to carefully consider how this modest but important proposal will help the lives of Americans who are truly disadvantaged.

I thank the Chair and ask unanimous consent that a copy of the legislation be printed at this point in the RECORD as if read.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1751

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXEMPTION OF FOOD STAMP HOUSEHOLDS FROM REDUCTION OR ELIMINATION OF WOOL AND MOHAIR PROGRAMS.**

(a) SUPPORT PRICE FOR WOOL AND MOHAIR.—Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) in subsection (a), by striking "through December 31, 1995." and inserting "through—

"(1) December 31, 1995; or

"(2) in the case of a household that is participating, or is eligible to participate, in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (referred to in this Act as a 'food stamp household'), December 31, 1997."; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting after "1995" the following: "(or, in the case of a food stamp household, December 31, 1997)";

(B) in paragraph (3), by striking "No" and inserting "In the case of producers of wool and mohair other than food stamp households, no"; and

(C) in paragraph (4)(A), by inserting after "1995" the following: "(or, in the case of a food stamp household, December 31, 1997)".

(b) REDUCTION IN PAYMENTS.—The second sentence of section 704(a) of such Act (7 U.S.C. 1783(a)) is amended by inserting after "In the case of" the following: "wool and mohair marketed by producers, other than food stamp households, for".

(c) ELIMINATION OF WOOL AND MOHAIR PROGRAMS.—Section 3 of Public Law 103–130 (7 U.S.C. 1781 note) is amended—

(1) by striking subsections (a) and (b); and

(2) in subsection (c), by striking "(c) PROHIBITION.—Effective" and inserting "In the case of a producer other than a household that is participating, or is eligible to participate, in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), effective".●

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By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1752. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1753. A bill amending the Harmonized Tariff Schedule; to the Committee on Finance.

S. 1754. A bill regarding the suspension of duty on diflunisal; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mr. BRADLEY. Mr. President, I introduce legislation which temporarily suspends the duties of famotidine, finasteride, and diflunisal. Joining me in sponsoring this legislation is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 3174, H.R. 3176, and H.R. 3428.

According to the International Trade Commission, these chemicals do not have domestic producers and are imported by Merck & Co., a pharmaceutical company located in New Jersey. All three chemicals are used for medicinal purposes.

A temporary duty suspension on these products benefit those whose ailments require them. Often inflated costs of medicines are impediments to those who need them. These duty suspensions would allow the pharmaceutical company to import the drugs at reasonable prices without the consumer paying the ultimate price.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1752

**SECTION 1. SUSPENSIONS.**

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

| | | | | | |
|---|---|---|---|---|---|
| "9902.31.12 | 3,5-Dimethyl-2-hydroxymethyl-4-methoxy-pyridine (pyrmethyl alcohol) (CAS No. 86604–78–6) (provided for in subheading 2933.39.47) ..... | Free | No change | No change | On or before 12/31/96 |
| "9902.31.13 | 2-Mercapto 5-methoxy benzimidazole (metmercazole) (CAS No. 37052–78–1) (provided for in subheading 2933.90.80) ..... | Free | No change | No change | On or before 12/31/96 |
| "9902.31.14 | m-Chloroperoxybenzoic acid (MCPBA) (CAS No. 00937–14–4)) (provided for in subheading 2916.39.04) | Free | No change | No change | On or before 12/31/96 |
| "9902.31.15 | N'-(aminosulfonyl)-3-{[[2-[(diaminomethylene)-amino]-4-thiazolyl]-methyl]thio] propanimidamide (famotidine) (CAS No. 76824–35–6) (provided for in subheading 2935.00.57) | Free | No change | No change | On or before 12/31/96". |

**SEC. 2. APPLICABILITY.**

The amendments made by this Act apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

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S. 1753

**SECTION 1. SUSPENSION OF DUTY ON FINASTERIDE AND FINASTERIDE TABLETS.**

Subchapter II of chapter 99 of Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

| | | | | | |
|---|---|---|---|---|---|
| "9902.31.12 | N-(1,1-dimethylethyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxamide (finasteride) (provided for in subheading 2933.79.50) | Free | No change | No change | On or before 12/31/96"; and |
| "9902.32.02 | N-(1,1-dimethylethyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxamide tablets (finasteride tablets) (provided for in subheading 3004.90.60) ..... | Free | No change | No change | On or before 12/31/96". |

**SEC. 2. EFFECTIVE DATE.**

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

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S. 1754

**SECTION 1. SUSPENSION OF DUTY ON DIFLUNISAL.**

Heading 9902.30.23 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/95".

**SEC. 2. APPLICABILITY.**

(a) IN GENERAL.—The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the 15th day after the date of the enactment of this Act, any entry or withdrawal from warehouse—

(1) that was made after December 31, 1992, and before such 15th day; and

(2) with respect to which there would have been no duty if the amendment made by section 1 applied to such entry or withdrawal;

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.●

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By Mr. BINGAMAN:

S. 1755. A bill to amend the Internal Revenue Code of 1986 to promote and improve employee ownership in the United States; to the Committee on Finance.

EMPLOYEE OWNERSHIP PROMOTION AND IMPROVEMENT ACT OF 1993

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will promote employee ownership. Although many are unfamiliar with the idea of employee ownership, I believe that it can serve as a key to our Nation's productivity and competitiveness. It can also serve as a means to narrow the disturbing earnings polarization we have seen in our economy over the last 20 years.

Simply put, employee ownership for participating employees means a piece of the company. It creates entrepreneurs out of workers. And it rewards productivity with earnings.

Mr. President, some might ask why this is important to our Nation. The answer is highlighted in studies that compares nonemployee owned and employee owned companies. In many cases, results indicate a correlation between stock performance and meaningful employee ownership. A Rutgers University study in March, for example found that while companies in which executives held 10 percent of the companies stock performed the same in companies in which they did not, company stock in companies in with worker holdings of 10 percent or greater jumped 23 percent last year versus 4.2 percent for the Dow Jones Industrials. The most recent update from the Rutgers group indicates the index of shares of public companies with 10 percent or greater employee ownership is up 11.25 percent for the year to date, compared to 0.6 percent for the Dow, 4.6 percent for the S&P 500, 7.86 percent for equity mutual funds, and 3.7 percent for the Wilshire 5000. Clearly, there is a link between performance and employee ownership, especially when ownership is broad based, and brings with it progressive employee participation. It is exactly this sort of performance that lead to job creation, economic expansion, and increased competitiveness for our Nation. And it is exactly these

sorts of high performance workplaces that can promote the labor-management relationship that we all believe are in our national interest.

Employee ownership can also help meet some of the demands for patient capital. Patient capital is the type of capital put into start-up and growing businesses with the intention of waiting several years or more for that investment to bear fruit. The United States, for various reasons, is experiencing a shortage of patient capital. We recognized the need to encourage long-term investment during the reconciliation process, when we included a modification of Senator BUMPERS' legislation providing capital gains relief for those willing to make long-term investments in small and growing businesses. It makes logical sense that employees are ideal investors for such companies. Clearly, they have an interest in seeing a company succeed, and are in a better position than many investors to determine the potential of the company they invest in.

Employee ownership can also significantly help combat the growing disparity of the haves and have nots in this Nation. To quote Jeffrey Gates' testimony before the Senate Democratic Task Force on Defense/Economic Conversion last September:

> The 1980s saw the most significant rise in wealth concentration since the 1920s, with the wealthiest one percent of Americans increasing their proportional share of the nation's net worth by more than 19 percent between 1983 and 1989. Meanwhile, from 1976–1986, the share of national income flowing to the poorest 10 percent of U.S. households dropped from 1.1 percent to 0.9 percent, a drop of more than 19 percent . . . full-time workers living below the poverty line represented 18 percent of the U.S. workforce in 1990, up from 12.1 percent in 1979.

Clearly, the growing disparity in incomes should be of concern to all of us. Throughout America's long history of democracy, we have strived to maintain a strong middle class, and the involvement of all in our governance. This system will clearly begin to lose legitimacy when the hopes for entering and maintaining the status of the middle class begin to disintegrate. Indeed, we can see the seeds of hopelessness all around us.

One of the benefits of employee ownership is that it can help close the gap of disparity that grew so large in the 1980s. It can create entrepreneurship, and the hope that entrepreneurship brings. It can also be part of a much-needed strategy to focus on our common destiny and future.

Because I believe that employee ownership can bring these kinds of benefits to our country, 2 years ago I began to develop a legislative package to promote employee ownership. I found that since 1974, we have had some incentives for employee ownership, particularly employee stock ownership plans, [ESOP's], in large part due to the foresight of Senator Russell Long of Louisiana and other members of the Finance Committee. Those incentives, however, have been somewhat limited, and it is clear that the potential benefits of employee ownership dictate more Federal involvement in promoting ownership. I consulted with many experts of employee ownership to determine what shape that involvement should take. The legislative package of initiatives, which I am introducing today, is the result of those consultations.

Mr. President, I welcome the involvement of others in fine tuning this package. In crafting it, I have attempted to encourage broad participation in ownership, long-term investments, and the dissemination of information on employee ownership. It is my hope that it will serve as a beginning point for the Congress to seriously address the need to promote employee ownership, for the good of this Nation's competitiveness, the good of our workers, and for our nation's future.

I ask unanimous consent that a summary of this legislation, and its full text, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 1755

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Employee Ownership Promotion and Improvement Act of 1993".

**SEC. 2. REFERENCES TO INTERNAL REVENUE CODE OF 1986.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**TITLE I—INVESTMENT INCENTIVES**

**SEC. 101. EXCLUSION FOR GAIN FROM SALE OR EXCHANGE OF CERTAIN STOCK OF AN EMPLOYEE OWNED BUSINESS.**

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end the following new section:

**"SEC. 1203. EXCLUSION FOR GAIN FROM SALE OR EXCHANGE OF CERTAIN STOCK OF AN EMPLOYEE OWNED BUSINESS.**

"(a) GENERAL RULE.—

"(1) EXCLUSION.—In the case of a taxpayer other than a corporation who has gain from the sale or exchange of qualified stock of an employee owned business, gross income shall not include an amount equal to the sum of the amounts determined by applying the applicable percentages determined under paragraph (2) to such gain.

"(2) APPLICABLE PERCENTAGES.—The applicable percentages under paragraph (1) shall be determined under the following table:

| "In the case of stock held: | The applicable percentage is: |
|---|---|
| At least 5 years but less than 6 years. | 50 |
| At least 6 years but less than 7 years. | 60 |
| At least 7 years but less than 8 years. | 70 |
| At least 8 years but less than 9 years. | 80 |
| At least 9 years but less than 10 years. | 90 |
| 10 or more years | 100. |

"(b) LIMITATION.—

"(1) IN GENERAL.—The aggregate amount of gain which may be excluded under subsection (a) for a taxable year shall not exceed $250,000 reduced by the aggregate amount of gain excluded by the taxpayer under subsection (a) for prior taxable years.

"(2) TREATMENT OF MARRIED INDIVIDUALS.—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting '$125,000' for '$250,000'.

"(B) ALLOCATION OF EXCLUSION.—In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(c) QUALIFIED STOCK OF AN EMPLOYEE OWNED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified stock of an employee owned business' means any stock in a corporation which is issued by such corporation on or after December 31, 1993, if—

"(A) as of the date of issuance, such corporation is an employee owned business, and

"(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified stock of an employee owned business unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON.—Stock acquired by the taxpayer shall not be treated as qualified stock of an employee owned business if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(B) SIGNIFICANT REDEMPTIONS.—Stock issued by a corporation shall not be treated as qualified stock of an employee owned business if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

"(C) TREATMENT OF CERTAIN TRANSACTIONS.—If any transaction is treated under

section 304(a) as a distribution in redemption of the stock of any corporation, for purposes of subparagraphs (A) and (B), such corporation shall be treated as purchasing an amount of its stock equal to the amount treated as such a distribution under section 304(a).

"(D) EXCEPTION FOR PURCHASE OF STOCK FROM EMPLOYEES.—Subparagraph (A) shall not apply to the purchase of stock by a corporation from an employee in connection with such employee's termination of employment with the corporation, or in connection with repurchasing shares offered for sale by employee shareholders.

"(4) SPECIAL RULES.—

"(A) REPURCHASE BY CORPORATION, ETC.—If—

"(i) stock in a corporation in the hands of a taxpayer would be qualified stock of an employee owned business except that it was issued before December 31, 1993, and

"(ii) the taxpayer sells such stock to such corporation or to an employees' trust fund which is described in section 401(a) and which is exempt from the tax under section 501(a),

such stock shall be treated as qualified stock of an employee owned business for purposes of applying subsection (a) to any gain of the taxpayer on such sale.

"(B) DISTRIBUTIONS TO EMPLOYEES.—If an employees' trust which is described in section 401(a) and which is exempt from tax under section 501(a)—

"(i) purchases stock in a corporation at original issue from such corporation or from a person who acquired such stock at original issue from such corporation, and

"(ii) distributes such stock to an employee, the stock distributed to such employee shall be treated as acquired by the employee at original issue and the employee's holding period for such stock shall include the period from issuance to distribution.

"(d) EMPLOYEE OWNED BUSINESS.—

"(1) IN GENERAL.—For purposes of this section, the term 'employee owned business' means any domestic corporation if—

"(A) at least 50 percent of the employees of the corporation own directly, or have allocated to an account in an employees' trust described in section 401(a) which is exempt from tax under section 501(a), stock in such corporation, and

"(B) stock owned by the employees of the corporation represents at least 30 percent of—

"(i) each class of outstanding stock of the corporation, or

"(ii) the total value of all outstanding stock of the corporation.

"(2) EXCLUSION OF CERTAIN STOCK FOR PURPOSES OF DEFINITION.—If an employee owns directly, or through an allocation to an account in an employees' trust described in section 401(a) which is exempt from tax under section 501(a), stock representing more than 5 percent of—

"(A) each class of outstanding stock of the corporation, or

"(B) the total value of all outstanding stock of the corporation,

no stock owned by such employee directly or through such an allocation shall be included under paragraph (1)(B).

"(e) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

"(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of 1 or more qualified trades or businesses, and

"(B) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4), assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified trade or business' means any trade or business other than—

"(A) any banking, insurance, financing, leasing, investing, or similar business,

"(B) any farming business (including the business of raising or harvesting trees), and

"(C) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A.

"(4) ELIGIBLE CORPORATION.—For purposes of this subsection, the term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(A) a DISC or former DISC,

"(B) a corporation with respect to which an election under section 936 is in effect or which has a direct or indirect subsidiary with respect to which such an election is in effect,

"(C) a regulated investment company, real estate investment trust, or REMIC, and

"(D) a cooperative.

"(5) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(6) WORKING CAPITAL.—For purposes of paragraph (1)(A), any assets which—

"(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

"(B) are held for investment and are reasonably expected to be used within 2 years to finance research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

"(7) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(8) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(f) STOCK ACQUIRED ON CONVERSION OF OTHER STOCK.—If any stock in a corporation is acquired solely through the conversion of other stock in such corporation which is qualified stock of an employee owned business in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified stock of an employee owned business in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

"(A) such amount shall be treated as gain described in subsection (a), and

"(B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified stock of an employee owned business in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified stock of an employee owned business was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer described in paragraph (2), the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) DESCRIPTION OF TRANSFERS.—A transfer is described in this subsection if such transfer is—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified stock of an employee owned business is exchanged for other stock which would not qualify as qualified stock of an employee owned business but for this subparagraph, such other stock shall be treated as qualified stock of an employee owned business acquired on the date on which the exchanged stock was acquired.

"(B) LIMITATION.—This section shall apply to gain from the sale or exchange of stock treated as qualified stock of an employee owned business by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time. The preceding sentence shall not apply if the stock which is treated as qualified stock of an employee owned business by reason of subparagraph (A) is issued by a corporation which (as of the time of the transfer described in subparagraph (A)) is an employee owned business.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified stock of an employee owned business under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which such limitation applied (determined after the application of the second sentence of subparagraph (B)).

"(D) CONTROL TEST.—In the case of a transaction described in section 351, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

"(i) BASIS RULES.—For purposes of this section—

"(1) STOCK EXCHANGED FOR PROPERTY.—In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(3) TREATMENT OF CONTRIBUTIONS TO CAPITAL.—If the adjusted basis of any qualified stock of an employee owned business is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

"(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

"(1) IN GENERAL.—If the taxpayer has an offsetting short position with respect to any qualified stock of an employee owned business, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

"(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

"(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

"(2) OFFSETTING SHORT POSITION.—For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified stock of an employee owned business if—

"(A) the taxpayer has made a short sale of substantially identical property,

"(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

"(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(k) COORDINATION WITH EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.—In the case of qualified stock of an employee owned business that is also qualified small business stock (as defined in section 1202(c))—

"(1) the taxpayer shall elect whether gain from the sale of such stock is excluded under this section or section 1202, and

"(2) the limitation under—

"(A) subsection (b) shall be reduced by the amount of such gain excluded under section 1202, and

"(B) section 1202(b) shall be reduced by the amount of such gain excluded under subsection (a).

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN QUALIFIED STOCK OF AN EMPLOYEE OWNED BUSINESS.—An amount equal to the amount excluded from gross income for the taxable year under section 1203."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "and (7)" and inserting "(7), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(C) the exclusion provided by section 1203 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting "(2)(C)," after "(2)(B),".

(2) Paragraph (4) of section 642(c) is amended—

(A) by inserting "or 1203(a)" after "1202(a)", and

(B) by inserting "1203, respectively" after "1202".

(3) Paragraph (3) of section 643(a) is amended by inserting "or 1203" after "1202".

(4) Paragraph (4) of section 691(c) is amended by striking "1202," and inserting "1202, 1203,".

(5) The second sentence of paragraph (2) of section 871(a) is amended by striking "section 1202" and inserting "sections 1202 and 1203".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1202 the following new item:

"Sec. 1203. Exclusion for gain from sale or exchange of certain stock of an employee owned business."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after December 31, 1993.

**SEC. 102. DEFERRAL OF CAPITAL GAINS TAX ON SALE OF EMPLOYER SECURITIES MODIFIED TO INCLUDE SECURITIES OF PUBLIC COMPANIES.**

(a) IN GENERAL.—Section 1042(c)(1)(A) (relating to sales of stock to employee stock ownership plans) is amended by striking "that has no stock outstanding that are readily tradable on an established securities market".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of securities occurring on or after December 31, 1993.

**SEC. 103. ESOP DIVIDEND EXCEPTION TO ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.**

(a) IN GENERAL.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

"(v) TREATMENT OF ESOP DIVIDENDS.—Clause (i) shall not apply to any deduction allowable under section 404(k)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

## TITLE II—INCENTIVES TO EMPLOYEES

**SEC. 201. USE OF 401(k) PLANS WITHIN EMPLOYEE STOCK OWNERSHIP PLANS.**

(a) IN GENERAL.—Section 4975(e)(7) (relating to the definition of employee stock ownership plan) is amended by adding at the end

the following: "An employee stock ownership plan may include a qualified cash or deferred arrangement under the same rules which apply to stock bonus plans under section 401(k), and an employee stock ownership plan may provide for matching contributions under the same rules which apply to stock bonus plans under section 401(m). Any contributions described in section 401(k)(2)(A), and any matching contributions described in section 401(m)(4)(A), which are made to an employee stock ownership plan may be used to make payments on a loan incurred for the purpose of acquiring qualifying employer securities (as described in section 404(a)(9))."

(b) ELECTIVE DEFERRALS.—

(1) INCREASE IN LIMIT FOR CERTAIN CONTRIBUTIONS.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended by adding at the end the following new paragraph:

"(9) INCREASE IN LIMIT ON ELECTIVE DEFERRALS FOR CONTRIBUTIONS TO EMPLOYEE STOCK OWNERSHIP PLANS.—The limitation under paragraph (1), as increased under paragraph (4), shall be increased by the lesser of—

"(A) the amount of any elective deferrals for contributions to an employee stock ownership plan (as defined in section 4975(e)(7)), or

"(B) $3,000."

(2) COST-OF-LIVING ADJUSTMENT.—Section 402(g)(5) (relating to cost-of-living adjustment) is amended to read as follows:

"(5) COST-OF-LIVING ADJUSTMENT.—The Secretary shall—

"(A) adjust the $7,000 amount under paragraph (1), and

"(B) in the case of years beginning after 1994, adjust the $3,000 amount under paragraph (9),

at the same time and in the same manner as under section 415(d)."

(c) EFFECTIVE DATE.—

(1) The amendment by subsection (a) is effective as of November 6, 1979, with respect to references to section 401(k) and effective October 22, 1986, with respect to references to section 401(m).

(2) The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993.

**SEC. 202. REDUCTION OF TAX RATES ON EMPLOYEE STOCK OWNERSHIP PLAN RETIREMENT DISTRIBUTIONS.**

(a) IN GENERAL.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended to read as follows:

"(a) TAXABILITY OF BENEFICIARY EXEMPT TRUST.—

"(1) IN GENERAL.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(2) EXCLUSION FOR PORTION OF LUMP-SUM DISTRIBUTION FROM ESOPS.—

"(A) DISTRIBUTION OF SECURITIES.—In the case of a lump-sum distribution of employer securities from an employee stock ownership plan (as defined in section 4975(e)(7)), there shall be excluded from gross income 50 percent of the net appreciation in securities of the employer corporation realized at the time of sale.

"(B) CASH DISTRIBUTION.—If an employee stock ownership plan (as defined in section 4975(e)(7)) distributes cash in lieu of employer securities held immediately before the distribution, there shall be excluded from gross income an amount equal to 50 percent of the net appreciation of such employer securities.

"(C) TREATMENT AS LUMP-SUM DISTRIBUTION.—For purposes of this paragraph, no distribution to any taxpayer other than an individual, estate, or trust may be treated as a lump-sum distribution under this paragraph."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made on or after December 31, 1993.

**SEC. 203. GAINS FROM THE SALE OR EXCHANGE OF CERTAIN EMPLOYER SECURITIES.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

**"SEC. 137. GAINS FROM THE SALE OR EXCHANGE OF CERTAIN EMPLOYER SECURITIES.**

"(a) TREATMENT OF GAIN.—

"(1) GENERAL RULE.—In the case of an individual, gross income shall not include gain from the sale or exchange of qualified employer securities but only if the sale or exchange occurs—

"(A) after the individual has attained the age of 55;

"(B) after the individual has held the qualified employer securities for 10 years while employed by the corporation which issued the qualified employer securities; and

"(C) during the 1-year period following the individual's separation from service as an employee of the corporation which issued the qualified employer securities.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be excluded under paragraph (1) for all taxable years shall not exceed $100,000.

"(b) DEFINITIONS.—For purposes of this section, the term 'qualified employer securities' means stock in a corporation which was originally issued to, or purchased by, the individual while the individual was employed by such corporation."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by redesignating the item relating to section 137 as section 138, and by inserting after the item relating to section 136 the following new item:

"Sec. 137. Gains from the sale or exchange of certain employer securities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges occurring on or after December 31, 1993.

**SEC. 204. ALLOWANCE OF DEDUCTION WITH RESPECT TO CERTAIN EMPLOYEE STOCK OPTIONS.**

(a) IN GENERAL.—Section 421 (relating to general rules regarding certain stock options) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE.—

"(1) IN GENERAL.—In the case of a transfer of a share of stock in an employee owned business (as defined in section 1203(c))—

"(A) subsection (a)(2) shall not apply, and

"(B) the corporation described in subsection (a)(2) shall be allowed, for the taxable year in which the option is exercised, a deduction equal to the fair market value of the stock at the time the option is exercised, reduced by the fair market value of the stock at the time the option is issued.

"(2) OPTIONS EXERCISED BY CERTAIN EMPLOYEES.—Paragraph (1) shall not apply to any option exercised by an employee who—

"(A) during the taxable year in which the option is exercised, receives compensation from the corporation which exceeds $200,000, or

"(B) on the date that the option is exercised, owns stock representing greater than 5 percent of the total value of all outstanding stock of the corporation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to options granted on or after December 31, 1993.

**SEC. 205. CERTAIN CORPORATIONS ALLOWED TO SPONSOR EMPLOYEE STOCK OWNERSHIP PLANS.**

(a) IN GENERAL.—Subparagraph (A) of section 1361(c)(2) (relating to definition of S corporation) is amended by inserting after clause (iv) the following new clause:

"(v) A trust established pursuant to an employee stock ownership plan (as defined in section 4975(e)(7))."

(b) TRUSTEE TREATED AS SHAREHOLDER.—Subparagraph (B) of section 1361(c)(2) (relating to definition of S corporation) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), the trustee shall be treated as the shareholder."

(c) APPLICATION OF UNRELATED BUSINESS TAX.—

(1) IN GENERAL.—Subsection (b) of section 513 (relating to unrelated trade or business) is amended—

(A) by striking "or" before "by a partnership" and inserting a comma, and

(B) by inserting ", or by an S corporation of which it is a shareholder" before the end period.

(2) SPECIAL RULES.—So much of subsection (c) of section 512 (relating to unrelated taxable income) as precedes paragraph (2) is amended to read as follows:

"(c) SPECIAL RULES APPLICABLE TO PARTNERSHIPS AND S CORPORATIONS.—

"(1) IN GENERAL.—If a trade or business regularly carried on by a partnership of which an organization is a member, or by an S corporation of which a trust established pursuant to an employee stock ownership plan (as defined in section 4975(e)(7)) is a shareholder, is an unrelated trade or business with respect to such organization or trust, such organization or trust shall, in computing its unrelated business taxable income (and subject to the exceptions, additions, and limitations contained in subsection (b)), include its share (whether or not distributed) of the gross income of the partnership or S corporation from such unrelated trade or business and its share of the partnership or S corporation deductions directly connected with such gross income."

(d) S CORPORATION TO PAY ESOP'S UNRELATED BUSINESS TAX.—

(1) IN GENERAL.—Section 1361 (relating to definition of S corporation) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP TRUSTS.—A trust shall not be treated as described in clause (v) of subsection (c)(2)(A) unless the S corporation the stock of which is held by such trust pays, or guarantees the payment by such trust of, any tax imposed by section 511. Any such payment or guarantee shall be made in such manner as the Secretary may prescribe and shall not be treated as a contribution to the trust under section 404(a)."

(2) CONFORMING AMENDMENTS.—

(A) Section 408(b) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

"(14) Any guarantee or payment of a tax liability as described in section 1361(e) of the Internal Revenue Code of 1986."

(B) Subsection (d) of section 4975 (relating to tax on prohibited transactions) is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; or", and by inserting after paragraph (15) the following new paragraph:

"(16) any guarantee or payment of a tax liability as described in section 1361(e)."

(e) COMPUTATION OF TAX ON UNRELATED BUSINESS INCOME.—Subsection (a) of section 511 (relating to imposition of tax on unrelated business income of charitable organizations) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN TRUSTS.—In the case of a trust described in section 1361(c)(2)(A)(v), the tax imposed by paragraph (1) on such trust's pro rata share of an S corporation's income pursuant to section 1366 shall be computed by multiplying its pro rata share of such income by the highest rate of tax specified in section 11(b)."

(f) S CORPORATION STOCK DISTRIBUTIONS TO ESOP NOT TREATED AS CONTRIBUTIONS.—Section 404(a) (relating to deductions for contributions of an employer to an employee trust) is amended by adding at the end the following new paragraph:

"(10) DISTRIBUTIONS WITH RESPECT TO STOCK OF S CORPORATION.—Distributions with respect to the stock of an S corporation made to an employee stock ownership plan (as defined in section 4975(e)(7)) shall not be considered contributions for purposes of this section or section 415(c)."

(g) DEDUCTION FOR S CORPORATION STOCK DISTRIBUTIONS.—Paragraph (2) of section 404(k) (relating to deduction for dividends paid on certain employer securities) is amended by adding at the end the following new subparagraph:

"(C) DIVIDEND.—The term 'dividend' shall include distributions with respect to stock of an S corporation which would be treated as a dividend but for the application of section 1368(a)."

(h) ESOP MAY DISTRIBUTE CASH.—The second sentence of paragraph (2) of section 409(h) (relating to right to demand employer securities put option) is amended to read as follows: "In the case of an employer that is an S corporation or whose charter or bylaws restrict the ownership of substantially all outstanding employer securities to employees or to a trust described in section 401(a), a plan which otherwise meets the requirements of this subsection or section 4975(e)(7) shall not be considered to have failed to meet the requirements of this subsection or section 401(a) merely because it does not permit a participant to exercise the right described in paragraph (1)(A) if such plan provides that participants entitled to a distribution from the plan shall have a right to receive such distribution in cash, except that such plan may distribute employer securities subject to a requirement that such securities may be resold to the employer under terms which meet the requirements of paragraph (1)(B)."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to plans sponsored on or after December 31, 1993.

## TITLE III—STATE PROGRAMS TO ENCOURAGE EMPLOYEE OWNERSHIP

### SEC. 301. PROGRAMS REGARDING EMPLOYEE OWNERSHIP AND PARTICIPATION.

(a) ESTABLISHMENT OF PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor (referred to in this section as the "Secretary") shall establish a program to facilitate the establishment of State programs to foster increased employee ownership and greater employee participation in business decisionmaking throughout the United States.

(b) PURPOSE OF PROGRAM.—The Secretary shall establish the program under subsection (a) to encourage State programs which focus on the following:

(1) Activities involving education and outreach to inform individuals about the possibilities and benefits of employee ownership, gainsharing, and participation in business decisionmaking, including financial education.

(2) Activities involving technical assistance to assist employee efforts to become business owners.

(3) Activities involving participation training to teach employees and employers methods of employee participation in business decisionmaking.

(4) Activities involving training other organizations to apply for funding under this section.

(c) PROGRAM DETAILS.—In focusing on activities referred to in subsection (b), the Secretary may include in the program provisions that would—

(1) in the case of activities under subsection (b)(1)—

(A) provide for the targeting of key groups such as retiring business owners, unions, managers, trade associations, and community organizations;

(B) encourage cooperation in organizing workshops and conferences; and

(C) provide for the preparation and distribution of materials concerning employee ownership and participation;

(2) in the case of activities under subsection (b)(2)—

(A) provide for the performance of prefeasibility assessments;

(B) provide assistance in the funding of objective third party feasibility studies; and

(C) provide a data bank to help employees find legal, financial, and technical advice in connection with company ownership;

(3) in the case of activities under subsection (b)(3)—

(A) provide for courses on employee participation; and

(B) provide for the development and fostering of networks of employee-owned companies to spread the use of successful participation techniques; and

(4) in the case of activities under subsection (b)(4)—

(A) provide for visits to existing programs qualified under this title by staff from new programs receiving funding under this title; and

(B) provide materials to be used by organizations qualified under this title.

(d) REGULATIONS.—Regulations issued by the Secretary pursuant to this title shall include provisions assuring that any program within the several States established for the purposes of this title be—

(1) proactive in encouraging actions and activities that will promote and encourage employee ownership of companies and participation in decisionmaking therein; and

(2) comprehensive in emphasizing both employee ownership of companies and employee participation in company decisionmaking so as to boost productivity and broaden capital ownership.

(e) GRANTS.—Any program established pursuant to subsection (a) shall provide for grants to the program within the several States in accordance with section 304.

### SEC. 302. OFFICE OF EMPLOYEE OWNERSHIP AND PARTICIPATION.

(a) ESTABLISHMENT.—The Secretary shall establish, within the Department of Labor, the Office of Employee Ownership and Participation (hereinafter referred to as the "Office") to promote employee ownership, gainsharing, and employee participation in company decisionmaking.

(b) FUNCTIONS.—The functions of the Office are to—

(1) support programs within the several States approved by the Secretary as being in compliance with the program established pursuant to section 301; and

(2) facilitate the formation of new programs within the several States for the purpose of accomplishing the goals of this title.

(c) DUTIES.—In carrying out its functions under subsection (b), the Office shall—

(1) in the case of activities under subsection (b)(1), support those programs within the several States that are designed to achieve the goals and purposes set forth in this title and to provide such support by—

(A) making matching Federal grants under section 304; and

(B) acting as a clearinghouse on techniques employed by the programs within the several States and disseminating information to such programs, or funding such information gathering and dissemination programs by groups outside the Office; and

(2) in the case of activities under subsection (b)(2), facilitate the formation of new programs by encouraging the establishment of such programs in each of the 50 States, including the holding or funding of an annual conference to bring together representatives from existing programs with the several States and representatives from States without such existing programs.

### SEC. 303. ORGANIZATION OF THE OFFICE.

(a) DIRECTOR.—There shall be at the head of the Office a Director of Employee Ownership and Participation (hereinafter referred to as the "Director") who shall be appointed by the Secretary.

(b) EMPLOYEES.—In carrying out the functions of the Office, the Director may select, appoint, employ, and fix the compensation of such employees as shall be necessary to carry out the functions of the Office.

### SEC. 304. GRANTS.

(a) IN GENERAL.—For the purpose of making grants authorized under the program established pursuant to section 301, the Office is authorized to make grants for use in connection with programs within the several States for any of the following activities:

(1) Education and outreach.

(2) Participation training.

(3) Technical studies, including prefeasibility and feasibility studies.

(4) Activities facilitating cooperation among employee ownership firms.

(5) Training for newly formed organizations to be provided by existing organizations qualified under this title, except that such funding shall not exceed 10 percent of the total grants under this title and will not require matching State contributions.

(b) MATCHING.—Grants under this section shall be made by the Office on a matching basis, $1 of Federal money for every 50 cents of non-Federal money.

(c) APPLICATIONS.—The Office shall prescribe the form and information necessary for applications for grants under this section.

(d) AMOUNTS AND CONDITIONS.—The Office shall determine the amounts and the conditions for grants made under this section.

(e) GRANTS ON BEHALF OF OTHER ENTITIES.—

(1) STATE APPLICATIONS.—Each of the several States may sponsor and submit applications on behalf of units of State or local governments, State-supported institutions of higher education, and nonprofit organization programs meeting the requirements of this title, but in no case shall the aggregate amounts of these grants made to any unit of State or local government, State-supported institutions of higher education, or nonprofit organization programs exceed the amount set forth in subsection (g).

(2) APPLICATIONS BY ENTITIES.—In any case in which a State fails to establish a program pursuant to this title during any fiscal year, the Secretary shall allow in the subsequent fiscal year entities described in paragraph (1) to make applications for grants on their own initiative. States would be allowed to submit applications in subsequent years as well but would no longer be able to screen applications first for submission to this program.

(f) ANNUAL REPORT.—Each grant recipient shall submit an annual report to the Office setting forth how all moneys from grants pursuant to this title were expended during the 12-month period preceding the date of the submission of the report.

(g) LIMITATIONS.—Grants to each of the recipients shall be limited for each fiscal year as follows:

(1) Fiscal year 1994, not to exceed, in the aggregate $200,000.

(2) Fiscal year 1995, not to exceed, in the aggregate $220,000.

(3) Fiscal year 1996, not to exceed, in the aggregate $242,000.

(4) Fiscal year 1997, not to exceed, in the aggregate $266,200.

(5) Fiscal year 1998, not to exceed, in the aggregate $292,000.

**SEC. 305. AUTHORIZATIONS.**

(a) IN GENERAL.—For the purpose of making grants pursuant to section 304, there are authorized to be appropriated the following:

(1) For fiscal year 1994, $2,500,000.

(2) For fiscal year 1995, $4,250,000.

(3) For fiscal year 1996, $6,000,000.

(4) For fiscal year 1997, $7,750,000.

(5) For fiscal year 1998, $9,500,000.

(b) ADMINISTRATIVE EXPENSES.—For the purpose of funding the Office, there is authorized to be appropriated for each of the fiscal years 1994 through 1998 an amount not in excess of 7.5 percent of the maximum amount available under subsection (b), or $250,000, whichever is the lesser.

**SEC. 306. OFFICE REPORTING.**

Prior to the expiration of the 36-month period following the date of enactment of this Act, the Director shall report to the Congress on the progress of employee ownership and participation in businesses in the United States. The report shall include a critical cost and benefit analysis of program activities.

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SUMMARY OF EMPLOYEE OWNERSHIP PROMOTION AND IMPROVEMENT ACT OF 1993

PURPOSE OF LEGISLATION

Ownership by American workers of their companies results in improved productivity, quality, and competitiveness, as well as a more rational distribution of capital in the United States.

The proposed legislation promotes this policy objective by providing:

Incentives to create and finance employee-owned companies (Sections 101, and 301).

Incentives for existing companies to create or expand ESOPs and other stock incentive plans (Section 103, 201, 204, 205), and for existing shareholders to sell stock to these plans (Section 102).

Incentives for employees to save for retirement by investing in their own companies (Section 101, 201, 202, and 203).

IMPORTANT DEFINITIONS (FOR PURPOSES OF SECTIONS 101 AND 204)

*Employee-Owned Business*

"Employee-owned business" means an active domestic corporation in which at least 50% of employees own stock (directly or allocated through a tax qualified plan) and such stock represents at least 30% of each class of outstanding stock (or 30% of the total value of all outstanding stock).

Certain business activities are specifically excluded from this definition (e.g., banking, insurance, financing, leasing, investing, farming, and product extraction).

For the purpose of this definition shares owned by any individual who owns more than 5% of the capital stock of the corporation shall be excluded from the 30% calculation.

*Qualified Stock of an Employee-Owned Business*

Stock must have been issued on or after December 31, 1993, or stock may have been issued prior to December 31, 1993 if it is subsequently purchased by the corporation or an Employees Trust Fund.

Stock must have been acquired at its original issue for cash or other non-stock property, or as compensation for services, or a combination of these.

Company must be employee-owned at the time of issue and must remain an active employee-owned business for substantially all of the tax payer's holding period.

TITLE I—INVESTMENT INCENTIVES

Section 101: Exclusion for Gain from sale or Exchange of an Employee Owned Business.

Objective: Encourages long term investment in the stock of employee-owned businesses.

Approach: Allows a tax exclusion on a portion of the gain realized from sale of the "qualified stock of an employee-owned business", if the stock is held for at least five years. The exclusion increases from fifty percent (for a five year holding period) to one hundred percent (for ten years or more). The total lifetime exclusion for any individual under this Section would be limited to $250,000, or $125,000 for a married individual filing a separate return.

Assessment: This section provides a major incentive to make long-term investments in employee-owned businesses, both for employees, as well as for investors in start-up employee-owned businesses. It also requires that the investment be "patient," to benefit from the exclusion.

TITLE I—INVESTMENT INCENTIVES

Section 102: Deferral of Capital Gains Tax on Sale of Employer Securities Modified to Include Securities of Public Companies.

Objective: Provides an incentive to shareholders of public companies to sell shares to the company's ESOP.

Approach: Section 1042 of the IRC now allows the seller of qualified stock to defer capital gain taxes if the stock is sold to the ESOP of a privately held company. To take advantage of this tax deferral several conditions must be met. Key ones are: (1) the stock must have been owned for at least three years, (2) the proceeds must be reinvested in qualified replacement property within twelve months, and (3) the ESOP must own at least 30% of the company's shares after the transaction. Under this proposed modification to Section 1042 of the IRC, qualified shares of publicly traded companies would also be eligible for this favored tax treatment.

Assessment: This Section would create significant demand to either create or enlarge the ESOPs of public companies, since those who sell to the ESOP could receive a significant deferral on capital gain taxes. The creation of a 30% ESOP provides employees with an important ownership stake in their company and induces non-employee stock holders to sell on a tax-deferred basis to the ESOP under Section 1042.

Section 103: ESOP Dividend Exception to Adjustments Based on Adjusted Current Earnings.

Objective: Removes ESOP dividends as a tax preference item for calculation of corporate Alternative Minimum Tax.

Approach: The tax laws of 1984 and 1986 permitted dividends paid on ESOP stock to be tax deductible. Until 1989, these ESOP dividends were not subject to the corporate Alternative Minimum Tax, or AMT. In the tax bill of 1989, Congress altered the complex calculations utilized to figure the AMT. When the IRS issued regulations implementing the new formulas, IRS retroactively deemed ESOP dividends to be subject to the corporate AMT. This proposed section would clarify that the IRS position is an incorrect interpretation of the law, and that ESOP dividends are not subject to the corporate AMT.

Assessment: ESOP dividends were intended to be tax deductible in the original formulation of the tax incentives for ESOPs to encourage the formation of ESOPs. By restoring this tax treatment, the intent of the original legislation will be reestablished.

TITLE II—INCENTIVES TO EMPLOYEES

Section 201: Use of 401(k) Plans Within Employee Stock Ownership Plans.

Objective: Provides incentives to create ESOPs and have employees save for their retirement through elective tax-deferred contributions to their Company's ESOP.

Approach: Modifies those parts of the IRC which deal with ESOPs and 401(k) plans. Under this section, the annual elective salary deferral limit of $7000 (adjusted annually, and now $8994) for 401(k) plans could be exceeded by up to $3000 for elective deferrals to the company's ESOP. Both the ESOP and non-ESOP limits will be adjusted annually, per existing methods.

Assessment: This provision would incentivize companies to establish ESOPs in conjunction with their existing 401(k) savings plans, since the individual annual deferred salary limits of their employees could thereby be increased.

Section 202: Reduction of Tax Rates on ESOP Retirement Distribution.

Objective: Provides a reduced tax rate to retirees for lump sum distributions from ESOPs.

Approach: Allows for an exclusion from income of an amount equal to fifty percent of the appreciation of employers securities held in the company ESOP when distributed after an employee retires. The company and employee contributions would be taxed as normal income as is currently done. The Section also puts stock distributions and cash distributions on an equal footing by allowing cash distributions to receive the same capital gains treatment as stock distributions.

Assessment: This provision will greatly help retirees who take either stock or cash distributions from their company ESOP at retirement by significantly reducing their effective tax rate. Currently, cash distributions are taxed as normal income (with some

provision for income averaging), unless rolled over into an IRA. This change will particularly help those who must live off these distributions after retirement. This feature will enhance the value of current ESOPs and create incentives to start new ESOPs.

Section 203: Gains from the Sale or Exchange of Certain Employer Securities.

Objective: Encourages employees to make long-term investments in their own companies.

Approach: Excludes from income one hundred percent of the capital gain on an employee's investment in his or her employer securities if: (1) the security is originally issued to or purchased by an employee and held for at least ten years, (2) the employee is at least fifty-five years old, and (3) the security is sold within one year after separation. The aggregate amount of such exclusions for all taxable years cannot exceed $100,000.

Assessment: This provision will incentivize long-term employee investment in their own companies, regardless of whether the company is an "employee-owned business" or not, or whether it is publicly traded or not. It encourages employee ownership of both publicly traded and privately held companies, and will create incentives for the management of privately held companies to allow their employees to become owners.

Section 204: Allowance of Deductions With Respect to Certain Employee Stock Options.

Objective: Encourages employee-owned businesses to use tax-advantaged Incentive Stock Options (ISO's) to motivate and reward their employees.

Approach: Allows employee-owned businesses to take a tax deduction equal to the compensation element of ISO's for the year in which the ISO is exercised, while allowing the recipient to defer taxes until the stock is sold. The company would receive no deduction for ISO's exercised by "key employees." This provision would not apply to options granted before December 31, 1993.

Assessment: The IRC does not now allow a company tax deduction when ISO's are exercised, though the individual may defer taxes until the stock is sold. By allowing such a company deduction, both the company and the stockholder receive a tax benefit. ISO's (a form of qualified stock option) are one of the most successful financial motivating tools available, but, after The Tax Reform Act of 1986, have been less frequently used since they are more costly than non-qualified options. This provision would restore the use of ISO's for employee-owned businesses, thereby increasing the involvement of employees in their own business, and motivating companies to achieve employee-owned status. The "key employee" restriction will prevent companies from receiving benefits from options exercised by high salaries employees (i.e., annual compensation >$200,000) or shareholders with large holdings (i.e., >5% ownership).

Section 205: Certain Corporations Allowed to Sponsor ESOPs.

Objective: Allow S-Corporations to establish ESOPs, thereby benefiting a larger number of employees.

Approach: Modifies the IRC sections which deal with S-Corporations, thus allowing such corporations to establish ESOPs.

Assessment: Small businesses are ideal for fostering employee ownership, since employees could become stockholders with a modest investment and see the enterprise grow based on their collective efforts. This provision would afford S-Corporations the opportunity to use the advantages of ESOPs now available to C-Corporations, and increase the number of U.S. workers who could participate in ownership of their employer's securities.

TITLE III—STATE PROGRAMS TO ENCOURAGE EMPLOYEE OWNERSHIP

Section 301: Programs Regarding Employee Ownership and Participation.

The Secretary of Labor shall establish an Employee Ownership and Participation Program to encourage and facilitate state programs that focus on: (1) education and outreach, (2) technical assistance, (3) participation training, and (4) training for preparing grant applications under section 304 below.

Section 302: Office of Employee Ownership and Participation.

The Secretary of Labor shall establish a Department of Labor Office to support existing state programs and facilitate new state programs. Duties of the Office shall include: (1) making of matching federal grants, (2) acting as a clearinghouse for information, and (3) facilitating information exchange and promoting state programs.

Section 303: Organization of the Office.

Authorizes the appointment of a Director of the Office of Employee Ownership Participation by the Secretary, and the staffing of such office.

Section 304: Grants.

Establishes program of grants to implement the functions in Title III to be administered by the Office. Also establishes reporting requirements, grant limitations, and other procedural elements.

Section 305: Authorizations.

Authorizes total pool of funds for grants, beginning at $2.5 million in FY 1994 escalating to $9.5 million in FY 1998, and establishes administrative costs of the Office, as not to exceed the lesser of 7.5% of the annual grant amounts, or $250,000.

Section 306: Office Reporting.

Establishes the requirement to report to Congress on the cost benefit of Title III activities.●

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By Mr. MURKOWSKI:

S. 1756. A bill to encourage the optimum utilization of fisheries resources, to reduce waste in commercial fish harvesting and processing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL FISHERIES WASTE REDUCTION ACT OF 1993

Mr. MURKOWSKI. Mr. President, I rise today to introduce a measure designed to encourage the regional fishery management councils created by the Magnuson Fishery Conservation and Management Act to take control of, and resolve one of the most pressing problems of modern fisheries.

Under Magnuson, we have successfully developed the capability to harvest vast amounts of this Nation's fish resources, and today, U.S. vessels have almost completely supplanted the foreign vessels that once took the bulk of the resources in our exclusive economic zone.

What we have not done, however, is to take adequate steps to ensure that we control the level of waste that occurs in our fisheries.

Today, I am introducing legislation that will direct regional fishery management councils throughout the country to identify waste levels in the fisheries they manage, and to adopt measures to reduce it. My bill will amend the Magnuson Act to require that waste reduction become one of the purposes of the act, and be treated as an integral part of Federal fisheries planning throughout the country.

To those who are unfamiliar with the fishing industry, this may sound like a simple thing—an obvious thing—a thing that should have been taken care of long ago. Unfortunately, because each fishery, each gear type, each target species and each style of processing may yield different levels of waste, it is not at all a simple issue.

I know that my colleague, the senior Senator from Alaska, shares my concerns about the management of our fishery resources and will carefully consider all proposals including his own and those of other Members when the Senate Commerce Committee begins work on the Magnuson Act reauthorization next year. He has indeed shown great leadership in this area. I am not a member of the Senate Commerce Committee and so I introduce this bill today to express my concern for the wise use and management of our fishery resources and to add my proposals to those that may be considered by the committee when it addresses waste in our fisheries during consideration of amendments to the Magnuson Act.

Although it is late in this session, it is my hope that introducing this legislation now will encourage interested parties to accept that Congress is indeed serious about addressing the issue of waste, and to use the opportunity of the congressional recess to discuss both this proposal and any others that may be offered. It is my firm belief that the time has come for action.

Mr. President, there are several different kinds of waste that occurs in modern fishing. First, there is the waste that occurs through the incidental catch of fish and other creatures that are not the target of the fishermen. Although many of these fish are edible and some are of relatively high value, they are most often discarded either because we are concentrating solely on a specific species or because our management rules require it. This is what we call bycatch, and very few of those discarded fish survive to be caught another day.

Second, there are what we call economic discards. These are fish that, although of the target species, are unsuited for processing by virtue of their size, sex, or other reasons. They, too, go overboard, and again, very few survive the experience.

Finally, there are discards of unprocessed fish parts that might be turned into useful fish meal and oil, but are not considered worth the extra effort of doing so.

Taken as a whole, Mr. President, these discards achieve a level of overall waste in commercial fisheries that is absolutely appalling. In a world where millions of people are starving, this is a disgrace of unparalleled proportions.

In some U.S. fisheries, the bycatch rate is estimated to be as high as nine pounds for every pound of fish retained for processing. Globally, some sources estimate that bycatch is in the realm of 10 to 20 billion pounds of non-target sea creatures per year. Even my home State of Alaska, where authorities have been far more progressive than the national average, some fisheries result in bycatch and economic discard levels so high that less than half the harvested fish is actually processed for consumption.

Back home in Alaska, we have a term for what we see in the Nation's fisheries today. We call it wanton waste when it occurs in State-regulated activities, and wanton waste it is indeed.

Despite all this, Mr. President, let me be very-clear: it is not this Nation's fishermen who are at fault for this problem. Indeed, the clearest and most audible calls for change have come from within the fishing industry itself. Fishermen tend to be, both by inclination and profession, conservationists. Their whole lifestyle is based on the sustainable harvest of the ocean's gifts. It is by no choice of theirs that we have reached such an unfortunate state. However, fishermen are also businessmen, and operate in a highly competitive environment. In order to survive, they must maximize their production of salable fish, and that all too often means they must concentrate on one species, lest they lose ground to their competitors.

This sad state of affairs is virtually forced on our fishermen because harvests are generally capped, and like the late bird who finds no worm, the slow fisherman will find his season closed willy-nilly, without regard to any effort he may have made to minimize waste.

There are all kinds of proposals that have been made to deal with this problem, from penalties, to incentives, to privatizing the fisheries. None of them will work in all situations. It is for that reason that I believe the answers must come from the industry itself, through the regional management council structure established by the Magnuson Act.

This approach will provide the greatest flexibility, on a region by region basis, to deal with the various facets of what has become a national disgrace. And make no mistake about it, flexibility will be the key to resolving this matter successfully, using methods that are equitable for all concerned.

Make no mistake; flexibility does not mean we should be undecided. We must take action. We can no longer afford to regard fisheries waste as an inevitable cost of doing business. It is no such thing.

However, we must beware of simplistic solutions which could drive our fishermen out of business, or which will fail to have adequate impacts, or which may create environmental problems we cannot now foresee. For example, some people advocate the concept of full utilization, meaning anything and everything captured must be retained for use. They argue that bycaught fish will die anyway, so if we cannot turn them into edible seafood products, we should be making fish meat and oil from them, at the very least. However, we are far from knowing how such a change in policy might affect the ocean. Is it better to put those fish back in the ocean where they can feed others, or should we turn them into meal that might fertilize a farm field in the midwest?

In short, Mr. President, we must accept that we do not have all the answers.

That is why this bill emphasizes the need to reduce the number of mortalities that occur as a result of bycatch, rather than on more drastic measures, and on reducing the level at which we discard unused fish and fish parts from our target species. These focal points, when addressed on a national scale but with real sensitivity to local differences, are the most likely to result in real change. And I submit, Mr. President, that real change is what we need today.

I ask you, my colleagues and friends, to join in this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1756

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE**

This Act may be cited as the "Commercial Fisheries Waste Reduction Act of 1993".

**SEC. 2. FINDINGS**

The Congress finds that—

(1) Current commercial fisheries practices in the United States and world wide contribute to a significant waste of edible food resources which are harvested, but discarded without processing for human consumption or other uses.

(2) Fish currently harvested but discarded without processing include in some fisheries large numbers of juvenile fish which would have significantly greater value both as an economic asset to the fishery and to the maintenance of the species if they were allowed to reach maturity before harvesting.

(3) Fish currently harvested but discarded without processing include in some commercial fisheries significant numbers of adult fish or fish parts which could be processed for human consumption, but which are required to be discarded for various fisheries management purposes, or which are considered unsuitable for a particular market of immediate interest to the fishing vessel operator.

(4) Fish currently harvested but discarded without processing include significant numbers of fish of species for which there is presently no viable market, but which, if they remained unharvested, could form the basis for future fisheries as new markets and processing techniques are developed.

(5) There is cause for concern that current levels of mortalities among non-target fish species may have adverse environmental consequences.

(6) High discard levels, if concentrated geographically, may cause damage to the productivity of the resources using the ocean bottom and near-bottom areas.

(7) The current level of scientific knowledge is insufficient to determine if adverse impacts may result from the removal of nutrients presently returned to the ocean through the discard of non-target fish species and of unutilized portions of targeted species.

(8) It is in the national interest both environmentally and economically to minimize mortalities among non-target species taken incidentally to the various directed fisheries.

(9) It is in the national interest to encourage the utilization where practicable of all parts of fish harvested in directed fisheries for that species.

**SEC. 3. AMENDMENTS TO MAGNUSON ACT.**

The Fisheries Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended—

(1) In subsection 1801(b)(4) by inserting "in a non-wasteful manner and" after "maintain,";

(2) In subsection 1801(b)(6) by inserting "in a non-wasteful manner" after "such development";

(3) In subsection 1802(21)(B) by inserting ", including efforts to limit mortality in non-target species for the purposes of resource conservation and food production" after "ecological factor";

(4) In section 1802 by adding at the end the following new paragraph:

"(33) The term "non-target species" means fish caught incidentally to fishing for a particular species or group of species and which may or may not be retained aboard the fishing vessel for subsequent processing and/or sale.";

(5) In section 1851(a)(1) by adding "and encourage the minimization of mortalities among non-target species" after "prevent overfishing";

(6) In section 1851(a)(5) by striking the word "promote" and inserting in its place the word "consider";

(7) In section 1851(a) by adding at the end the following new paragraph:

"(8) Conservation and management measures shall encourage the non-wasteful taking of fishing resources, including the reduction of discards of fish and fish parts, and the minimization of mortalities among non-target species.";

(8) In section 1853(a) by redesignating paragraph (4) as paragraph (6) and renumbering the subsequent paragraphs accordingly; and by inserting the following new paragraphs:

"(4) assess and specify—

"(A) to the maximum extent practicable an estimate by numbers of fish or weight thereof of the extent of anticipated mortalities among non-target species taken incidentally to the fishery or fisheries for which the plan is prepared, and

"(B) to the maximum extent practicable, an estimate by numbers of fish or weight thereof of anticipated discard levels of fish and fish parts taken pursuant to the fishery, but not utilized;

"(5) contain a description of measures intended to reduce mortalities among non-target species taken incidentally to the fishery

or fisheries for which the plan is prepared, and to encourage the use of target species in a manner which minimizes the discard of fish and fish parts;'; and

(9) In section 1853 by adding at the end the following new subsection:

"(g) REQUIRED AMENDMENT OF MANAGEMENT PLANS.

Each council shall—

"(1) within one year from the date of enactment of this subsection, submit to the Secretary such amendments for each management plan under its jurisdiction as are needed to comply with subsections (a) (4) and (5) of this section; and

"(2) thereafter submit annually to the Secretary a report identifying any changes to the estimate and descriptions required in subsections (a) (4) and (5) and in paragraph (1) of this subsection, and providing an explanation of the cause or causes of such changes.".

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By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. AKAKA, Mr. BAUCUS, Mrs. BOXER, Mr. BUMPERS, Mr. CAMPBELL, Mr. CONRAD, Mr. DODD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LEVIN, Mr. MATHEWS, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. SIMON, and Mr. WOFFORD) (by request):

S. 1757. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; read the first time.

THE HEALTH SECURITY ACT

Mr. MITCHELL. Mr. President, I am pleased to introduce the Health Security Act. The act represents an extraordinary effort on the part of Members of this body and Members of the House of Representatives. It represents hundreds of hours of consultation with families who have been adversely affected by the current health care system, with providers of care, and with many other interested organizations and individuals. This consultative process is unprecedented in my experience in the Senate. But all of this effort would not have brought us to this point without the leadership of President and Mrs. Clinton. They are to be commended for their vision, their willingness to take on this most difficult issue and their openness to input from many points of view.

The act proposes a comprehensive restructuring of the way health care is financed and delivered in this country. We are compelled to act, because our health care system cannot survive in its current form.

Every year, 1 million more Americans lose their health insurance coverage. Millions of others—in fact, nearly all Americans—fear losing their coverage if they become seriously ill or lose their job.

Many Americans have the most basic decisions of their life dominated, indeed dictated, by health care coverage and cost considerations. Whether to marry. Whether to have children. Where to work. Where to live.

These fundamental decisions should not be dictated by concerns about health insurance. But in the current system, they are.

President Clinton knows that we must reform the system. Members of Congress know that reform must come. And the American people know that reform must come.

This act represents an important first step toward protecting the health security of every American. It is also an important first step toward controlling the rapidly escalating costs of health care for families, for business, and for government.

The Health Security Act will assure security. The American people will have health coverage that can never be taken away. No longer will life decisions be driven by concerns about losing health care coverage.

The Act will assure savings, with meaningful cost containment provisions intended to control the rapidly escalating costs of health care.

It will expand choice. Consumers will be guaranteed the opportunity to choose from a variety of health plans and providers. For many Americans, this will represent their first opportunity to select the type of coverage or the specific provider that best suits their medical needs.

The Act will improve the quality of the American health care system. This will be accomplished in part by creating standards and guidelines for health professionals based on the researched outcomes of common procedures.

The Act will move toward simplicity in the health care system by reducing paperwork and moving to electronic billing. Providers will be able to spend their time treating patients and keeping abreast of the latest developments in medical research, instead of processing paperwork.

Finally, the President's plan will require responsibility from every American. Every business and every individual will be required to assume a fair share of the responsibility for health care in America.

Introduction of the Health Security Act represents the formal beginning of the Congressional debate on this critical matter.

The debate will be lively. There are bound to be differences of opinion about how best to achieve the goals the President has set forth, even among those of us who support this legislation.

There will certainly be differences of opinion with those who want to provide access to health care for every American, but who do not support the President's approach. I refer specifically to the efforts of the Republican Health Care Task Force, led by Senators DOLE and CHAFEE.

I have worked for many years with Senator CHAFEE and Senator DOLE on the Senate Finance Committee. I welcome their efforts to join in developing a meaningful health care reform proposal which includes the fundamental goal of ensuring universal access to health care for every American. I commend them for their work on this issue, and I look forward to working with them.

There are parts of the Chafee/Dole proposal which are similar to provisions in the President's plan. I want to note, in particular, that the Republican plan also calls for a mandate.

The Chafee proposal would require all individuals to purchase health insurance. That's a mandate. The Clinton plan requires all businesses to provide health insurance. So, the debate will not be over whether there should be a mandate, but rather how best to mandate coverage to assure that every American has health insurance.

There are also significant differences. In addition to the requirement on employers, I believe we must have meaningful, enforceable cost containment.

I believe that inclusion of these components is critical if we are to achieve our shared fundamental goal, which is to assure that every American has affordable health care coverage.

We must remember what President Clinton said when he presented the Health Security Act to Congress. He said that he is willing to compromise, but that he will not sign a bill that does assure health care coverage for every American.

It is my belief that we will not send him such a bill. I believe that Democrats and Republicans can and will work together to agree upon a health care reform plan which will both ensure health care security for all Americans and control health care costs.

And I believe that we can—and that we must—work together to achieve these goals during this Congress.

The legislative process for health care reform will be challenging. We will move as quickly as is prudent given the scope and complexity of the bill.

Many committees of the House and Senate will have parts of this bill before them. This legislation touches on many areas of American life, and accordingly will be referred to several committees.

I am working closely with the committee chairs to move this historic bill through the legislative process.

It will be a complicated process. No one should believe that it will be easy. But the cost of inaction will be much higher than the cost of action.

We can reform our health care system. It will be done so long as all parties involved remain focused on our common goal: to provide affordable health care to all of our citizens.

The consensus that today supports universal health coverage for all Americans represents an unprecedented opportunity to achieve meaningful reform.

Of course, consensus doesn't mean the end of debate. Complex questions remain about the extent of coverage, the costs of care, and how to pay those costs. These are not easy questions to answer. They'll demand compromise from every sector-providers, patients, young and old, hospitals and insurers.

The public debate on health care reform has focused on the issues of cost and access. We know we can't keep doubling health care spending every five years.

The cost of health care threatens the fiscal health of the Federal Government, State governments, every American business, and every American family.

Access is equally important. Uninsured people are flooding some emergency rooms and clinics with cases ranging from the trivial to the life-threatening. Millions more live in fear that a serious illness or a pink slip will mean the loss of insurance coverage.

It is the tension between expanding access and controlling the cost of health care which continues to present a challenge to those who are attempting to develop responsible public policy.

The challenge is to strike an appropriate balance between these two important objectives.

We must work together in good faith, to embrace the common aspects of the many plans which have been advanced, and to negotiate until we have enacted the best possible plan for the American people.

I challenge all Members of the Senate, on both sides of the aisle to work with us, to share the responsibility, and to share the benefit of achieving this critical goal.

I ask unanimous consent that a memorandum from the White House be printed in the RECORD which describes a number of changes in the bill which are clarifications of the administration's policy. In addition, I ask unanimous consent that a more lengthy list of all changes, including strictly technical corrections be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON HEALTH SECURITY ACT

The Health Security Act transmitted to the Congress today contains several changes from the version released in October. These changes are necessary to conform the legislation to the President's policy. In addition, there is another list of strictly technical corrections. The changes are as follows:

Medicare—The reimbursement for advanced practice nurses under Medicare is defined more clearly to describe which services will be reimbursed. Several of the changes to the Medicare program to limit the rate of growth in Medicare are extended until the year 2003, and the Secretary of Health and Human Services will report to the Congress on the growth of spending under the Medicare program with recommendations for limits on the rate of growth if the rate of increase exceeds the increase in health care spending overall plus one percent.

Tax Changes—

Independent Contractors—The authority of the Secretary of Treasury to promulgate regulations defining independent contractor status is clarified to target such authority to abuses and to emphasize that there is no authority to override specific statutory exemptions.

Tax Cap—The tax cap, which becomes effective in 2004, is clarified to ensure that it includes all employer spending, including cost sharing, for the comprehensive benefit package.

Advisory Commission on Regional Variations in Health Care Costs—The provisions on the Advisory Commission are changed slightly to describe more accurately the report and recommendations on regional variations in health care spending and the process of Congressional disapproval of recommendations.

Benefits—The periodicity schedule for preventive benefits for children is altered to serve adolescents more appropriately. The flexibility in the mental illness and substance abuse benefit is more explicitly described by detailing the substitution of different methods of treatment, such as intensive nonresidential treatment as a substitute for inpatient treatment. The day limits for services, that exist prior to the expansion of benefits in 2001, and applicable copayments and deductibles on mental illness and substance abuse benefits are clarified to conform to the intended policy. The effect on the premium caps of including additional mental illness and substance abuse benefits in 2001 is detailed.

Veterans' Health Programs—A fund for infrastructure development for the health facilities of the Department of Veterans Affairs and benefits currently available to veterans, which are inadvertently omitted, are included.

State and Federal Maintenance of Effort and Subsidy Payments—Several clarifications of the responsibilities of the Federal and State governments to contribute funds based on current Medicaid and other expenditures are added. The maintenance of effort payment by the States does not include current payments for wraparound services for non-cash children; Federal and State governments share responsibility for funding subsidies for the cash population for cost—sharing and for premiums, as under the Medicaid program. In addition, the maintenance of effort payments by States for the current Medicaid population increases more slowly if State expenditures for the interim period increase more slowly then the national average.

Quality—A section on quality relating to the development of demonstration standards for the licensing of health care institutions, which was inadvertently omitted, is included.

Limitiations on Borrowing—Specific limits are imposed on borrowing for various purposes, including the corporate alliance guaranty fund, the transitional risk pool, and Federal subsidy payments.

Corporate Alliance Option—The option for corporate alliances to provide coverage through regional alliances for establishments with fewer than one hundred employees is deleted.

Multiemployer Plans—Multiemployer plans with more than 5000 members which choose not to form a corporate alliance may pay premiums to the regional alliance for their members if they assume the legal obligations of the employer to do so.

Equal Contribution Rule—an equal contribution rule for employers, requiring the same dollar contribution by the employer for all employees in the same class in the same alliance for benefits beyond the comprehensive benefits package, which was inadvertently omitted, is added.

Long-Term Care Cost Sharing—The schedule for cost sharing for long-term care services provided under the home and community based care program is reduced from a maximum of 40% to 25%, together with conforming changes.

Personal Needs Allowance—The personal needs allowance provided to Medicaid nursing home residents is increased to $50 from the current $30, as opposed to an increase of $70 previously described.

Early Retiree 20% Share—Employers currently obligated to provide health benefits to employees will be required, beginning in 1998, to pay the individual 20% share of the cost of the comprehensive benefit package for those employees.

Workforce and Academic Health Centers—The definition of academic health centers is clarified to assure that such centers include medical schools and other health professional training programs, as well as teaching hospitals. The timetable for expanding the number of primary care physicians is advanced to 1998 to achieve the transition to primary care. The authorizations for the workforce development programs are increased by $400 million annually, as intended. The program for training of advanced practice nurses is funded by $200 million, in addition to funds available under the GME program. The termination dates for the Medicare Direct and Indirect GME programs are adjusted to maintain a constant source of funding for these institutions. The workforce retraining program under the Secretary of Labor is clarified to ensure the establishment of an Institute for Health Care Workforce Development and to detail the specifics of the retraining program.

Indian Health Service—The eligibility of individuals enrolled in Indian Health Service programs for Premium discounts is clarified.

CHANGES BEFORE TITLE I

Page 2, in the table of subtitles of title I, strike any reference to subtitle H or I.

Page 3, in subtitle B of title VI, strike "Financings" and insert "Financing".

TITLE I CHANGES

*[Subtitle A—Universal Coverage and Individual Responsibility]*

Page 17, line 3, strike "section 8302(b)" and insert "section 8302(b) or 8306(b)".

Page 18, line 18, strike "an employee benefit plan" and insert "a plan".

Page 19, line 7, strike "arrangement" and insert "plan".

Page 19, line 20, add a period after "coverage".

Page 20, beginning on line 9, strike "paragraph (2)(A)" and insert "subsection (a)(2)(A)".

Page 21, beginning on line 10, strike "class of family enrollment under this Act" and insert "'class of family enrollment'".

Page 21, lines 13, 17, 20, and 22, insert "enrollment or" before "class".

Page 22, beginning on line 1, strike "term 'family', with respect to a class of enrollment, refers" and insert "terms 'family enrollment' and 'family class of enrollment' refer".

Page 22, beginning on line 5, strike "term 'couple', with respect to a class of enrollment" and insert "term 'couple class of enrollment'".

Page 23, line 7, insert "under this Act" after "children".

Page 24, after line 2, insert the following:

"(E) CHILDREN PLACED FOR ADOPTION.—A child includes a child who is placed for adoption with an eligible individual."

Page 24, line 7, insert "or in which children are not residing with their parents" after "area".

Page 24, line 8, insert "eligible" after "of".

Page 24, line 10, strike "and".

Page 24, line 12, insert "and" after the comma.

Page 24, after line 12, insert the following:

(4) treatment of children of parents who are separated or divorced,

Page 24, lines 16 and 17, strike "QUALIFIED" and insert "QUALIFYING".

Page 24, line 22, insert "and in such following month would be a medicare-eligible individual but for this paragraph" after "following months".

Page 24, line 24, strike "the following" and insert "such following".

Page 25, line 3, strike "a medicare-eligible individual (determined without regard to paragraph (1))" and insert "an individual".

Page 25, strike lines 7 through 13.

Page 25, line 19, insert "collectively" after "treated".

Page 26, line 5, insert "(as defined in section 1902(33))" after "recipients".

Page 26, line 21, insert ", as added by section 8101(a)(1)" after "Code".

Page 27, line 12, strike "1073a(d)(1)" and insert "1073a(e)(2)(A)".

Page 27, line 13, insert "(as added by section 8001(a))" after "Code".

Page 28, line 10, strike "individual" and insert "student".

Page 29, line 9, strike "the health" and all that follows through line 13 and insert "for transfer payments see section 1346(e).".

Page 29, line 24, strike "612(c)(1)" and insert "1901(b)(1)".

Page 30, line 4, strike "an" and insert "a".

*[Subtitle B—Benefits]*

• Page 32, line 21, strike "health" and insert "illness".

Page 35, lines 6, 13, and 21, insert "such" after "in".

• Page 40, after line 18 insert the following (and redesignate provisions accordingly):

"(d) INDIVIDUALS AGE 6 TO 12.—For an individual at least 6 years of age, but less than 13 years of age, the clinician visits specified in this subsection are 3 clinician visits."

• Page 40, lines 19 and 20, strike "6" and insert "13".

Page 41, lines 3 and 5, insert a comma after "exams" and "cancer", respectively.

• Page 41, line 8, strike "obtained;" and insert "obtained, if medically necessary;".

• Page 41, line 16, strike "5" and insert "3".

• Page 45, line 19, strike "**HEALTH**" and insert "**ILLNESS**".

• Page 45, line 21, strike "health" and insert "illness".

• Page 46, line 1, strike "health" and insert "illness".

Page 46, line 2, insert "(described in subsection (c))" after "treatment".

• Page 46, line 3, strike "health" and insert "illness".

Page 46, line 4, insert "(described in subsection (d))" after "treatment".

• Page 46, line 5, strike "health" and insert "illness".

Page 46, line 6, insert "(described in subsection (e)" after "treatment".

• Page 46, lines 14, 16, and 17, strike "health" and insert "illness".

• Page 46, line 22, strike "or" and insert "disorder or a diagnosable".

• Page 47, line 5, strike "or" and insert "disorder or a diagnosable".

• Page 47, strike line 14 and all that follows through "and" on line 16 and insert the following:

"(A) a health professional designated by the health plan in which the individual is enrolled"

• Page 47, line 20, strike "health" and insert "illness".

• Page 47, line 20, insert before the period "with respect to a diagnosable mental disorder or a diagnosable substance abuse disorder".

• Page 47, line 24, strike "health" and insert "illness".

• Page 48, line 5, strike "health" and insert "illness".

Page 48, line 7, strike "as defined" and insert "described".

• Page 48, lines 9, 10, 11, and 15, strike "health" and insert "illness".

• Page 48, line 19, strike "or" and insert "disorder or a diagnosable".

• Page 48, line 24, strike "health" and insert "illness".

• Page 49, lines 8 and 11, strike "health" and insert "illness".

• Page 49, after line 12 insert the following:

"(A) RESIDENTIAL MENTAL ILLNESS TREATMENT.—Such treatment, when provided with respect to a diagnosable mental disorder in a setting that is not a hospital or a psychiatric hospital, is covered only to avert the need for, or as an alternative to, treatment in a hospital or a psychiatric hospital, as determined by a health professional designated by the health plan in which the individual receiving such treatment is enrolled.

(B) RESIDENTIAL SUBSTANCE ABUSE TREATMENT.—Such treatment, when provided with respect to a diagnosable substance abuse disorder in a setting that is not a hospital or a psychiatric hospital, is covered only if a health professional designated by the health plan in which the individual receiving such treatment is enrolled determines (based on criteria that the plan may choose to employ) that the individual should receive such treatment."

• Page 49, line 13, strike "(A)" and insert "(C)".

• Page 49, strike line 22 and all that follows through page 50, line 24, and insert the following:

"(D) ANNUAL LIMIT.—Prior to January 1, 2001, such treatment is subject to an aggregate annual limit of 30 days. A maximum of 30 additional days of such treatment shall be covered for an individual if a health professional designated by the health plan in which the individual is enrolled determines in advance that—

(i) the individual poses a threat to his or her own life or the life of another individual; or

(ii) the medical condition of the individual requires inpatient treatment in a hospital or a psychiatric hospital in order to initiate, change, or adjust pharmacological or somatic therapy."

• Page 51, beginning on line 2, strike "Substance abuse treatment," and all that follows through line 7 and insert the following:

"Such treatment, when provided in a hospital or a psychiatric hospital with respect to a diagnosable substance abuse disorder, is covered under this section only for detoxification requiring the management of psychiatric conditions associated with withdrawal from alcohol or drugs. The items and services described in this section do not include medical detoxification as required for the management of medical conditions associated with withdrawal from alcohol or drugs (which is covered under section 1111)."

• Page 51, line 10, strike "health" and insert "illness".

• Page 51, line 13, strike "or" and insert "disorder or a diagnosable".

• Page 51, lines 19 and 20, strike "health" and insert "illness".

• Page 52, lines 1 and 4, strike "health" and insert "illness".

• Page 52, beginning on line 6, strike "A health" and all that follows through line 9 and insert the following:

"An individual shall receive coverage for such treatment if a health professional designated by the health plan in which the individual is enrolled determines (based on criteria that the plan may choose to employ) that the individual should receive such treatment."

• Page 52, beginning on line 19, strike "health or" and insert "disorder or a diagnosable".

• Page 52, line 21, strike "the individual" and insert "such an individual".

• Page 53, beginning on line 3, strike "such treatment" and all that follows through page 54, line 4, and insert the following:

the number of covered days of inpatient and residential mental illness and substance abuse treatment that are available to an individual under the 30-day limit described in the first sentence of subsection (c)(2)(D) shall be reduced by 1 day for each 2 covered days of intensive nonresidential mental illness and substance abuse treatment that are provided to the individual, until such number is reduced to zero.

(ii) ADDITIONAL DAYS.—After the number of covered days referred to in clause (i) has been reduced to zero with respect to an individual, the individual shall receive coverage for a maximum of 60 days of intensive nonresidential mental illness and substance abuse treatment if a health professional designated by the health plan in which the individual is enrolled determines that the individual should receive such treatment.

(D) DETOXIFICATION.—Intensive nonresidential mental illness and substance abuse treatment consisting of detoxification is covered only if it is provided in the context of a treatment program.

• Page 54, line 5, strike "(D)" and insert "(E)".

• Page 54, line 7, strike "health" and insert "illness".

• Page 54, beginning on line 12, strike "that substitute" and all that follows through line 17 and insert the following:

may not be applied toward any annual out-of-pocket limit on cost sharing under any cost sharing schedule described in part 3 of this subtitle if such treatment is provided—

(i) with respect to a diagnosable substance abuse disorder; or

(ii) pursuant to subparagraph (C)(ii).

• Page 54, line 20, strike "health" and insert "illness".

• Page 54, line 22, strike "or" and insert "disorder or a diagnosable".

• Page 55, line 10, strike "health" and insert "illness".

• Page 55, strike line 16 and all that follows through page 56, line 2, and insert the following:

(B) DISCRETION OF PLAN..—An individual shall receive coverage for outpatient mental illness and substance abuse treatment consisting of substance abuse counseling and relapse prevention if a health professional designated by the health plan in which the individual is enrolled determines (based on criteria that the plan may choose to employ) that the individual should receive such treatment. This subparagraph does not apply to group therapy covered pursuant to subparagraph (C)(ii)(II).

Page 56, line 4, strike "PYCHOTHERAPY" and insert "PSYCHOTHERAPY".

• Page 56, beginning on line 7, strike "annual" and all that follows through the period on line 8 and insert "an aggregate annual limit of 30 visits per individual.".

• Page 56, beginning on line 13, strike "the annual" and all that follows through page 57, line 14, and insert the following:

the number of covered days of inpatient and residential mental illness and substance abuse treatment that are available to an individual under the 30-day limit described in the first sentence of subsection (c)(2)(D) shall be reduced by 1 day for each 4 visits. After such number has been reduced to zero, no additional visits under the preceding sentence may be covered.

(ii) SUBSTANCE ABUSE COUNSELING AND RELAPSE PREVENTION.—

(I) IN GENERAL.—Except as provided in subclause (II), the number of covered days of inpatient and residential mental illness and substance abuse treatment that are available to an individual under the 30-day limit described in the first sentence of subsection (c)(2)(D) shall be reduced by 1 day for each 4 visits for substance abuse counseling and relapse prevention that are covered for the individual under subparagraph (B). After such number has been reduced to zero, no visits for substance abuse counseling and relapse prevention may be covered, except as provided in subclause (II).

(II) GROUP THERAPY.—Prior to January 1, 2001, substance abuse counseling and relapse prevention consisting of group therapy is subject to a separate aggregate annual limit of 30 visits, if such therapy occurs within 12 months after the individual has received, with respect to a diagnosable substance abuse disorder, inpatient and residential mental illness and substance abuse treatment or intensive nonresidential mental illness and substance abuse treatment. The provisions of clause (i) and subclause (I) do not apply to therapy that is described in the preceding sentence.

(D) DETOXIFICATION.—Outpatient mental illness and substance abuse treatment consisting of detoxification is covered only if it is provided in the context of a treatment program.

• Page 57, line 15, strike "(D)" and insert "(E)".

• Page 57, line 17, strike "health" and insert "illness".

• Page 58, strike lines 1 through 8.

• Page 58, strike lines 15 through 21 and insert the following:

(2) DIAGNOSABLE MENTAL DISORDER AND DIAGNOSABLE SUBSTANCE ABUSE DISORDER.—The terms "diagnosable mental disorder" and "diagnosable substance abuse disorder" means a disorder that—

(A) is listed in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised or a revised version of such manual (except V Codes for Conditions Not Attributable to a Mental Disorder That Are a Focus of Attention or Treatment);

(B) is the equivalent of a disorder described in subparagraph (A), but is listed in the International Classification of Diseases, 9th Revision, Clinical Modification, Third Edition or a revised version of such text; or

(C) is listed in any authoritative text specifying diagnostic criteria for mental disorders or substance abuse disorders that is identified by the National Health Board.

Page 61, line 3, strike "added" and insert "inserted".

Page 61, line 3, strike "2006" and insert "2005".

Page 65, lines 2, 11, and 19, strike "National Health Board" and "Board" each place it appears and insert "Secretary".

Page 67, line 6, strike "repair" and insert "repair, function,".

Page 67, line 8, after "dental" insert "devices".

Page 68, line 7, strike "diagnosis" and insert "routine eye examinations, diagnosis,".

Page 68, line 9, insert, ", according to a periodicity schedule established by the National Health Board" after "age".

Page 73, line 9, strike "one" and insert "one, but not more than one,".

Page 73, line 12, strike "lower" and insert "Lower".

Page 73, line 13, strike the semicolon and insert a period.

Page 73, line 14, strike "higher" and insert "Higher".

Page 73, line 15, strike "; or" and insert a period.

Page 73, line 16, strike "combination" and insert "Combination".

Page 75, line 7, insert "any" after "and".

Page 75, line 18, insert "(expressed as a percentage of an amount otherwise payable or as a dollar amount, respectively)" after "amounts".

• Page 76, line 11, strike "(d)(2)(D) and (e)(2)(D)" and insert "(d)(2)(E) and (e)(2)(E)".

• Page 77, line 3, strike "(d)(2)(D) and (e)(2)(D)" and insert "(d)(2)(E) and (e)(2)(E)".

Page 78, line 18, strike "which" and insert "which, under the higher cost sharing schedule described in section 1133,".

Page 78, beginning on line 20, strike "under" and all that follows through line 21 and insert a period.

• Page 78, line 23, before "The higher" insert "(a) IN GENERAL.—".

• Page 79, line 14, strike "health" and insert "illness".

• Page 79, line 15, strike "1115)" and insert "1115(c))".

• Page 79, after line 17, insert the following (and redesignate provisions accordingly):

(3) shall require an individual to incur expenses during each episode of intensive nonresidential mental illness and substance abuse treatment (described in section 1115(d)) equal to the cost of one day of such treatment before the plan provides benefits for such treatment to the individual;

• Page 80, after line 22, insert the following:

(b) EPISODES OF TREATMENT.—

(1) INPATIENT AND RESIDENTIAL TREATMENT.—For purposes of subsection (a)(2), an episode of inpatient and residential mental illness and substance abuse treatment shall be considered to begin on the date an individual is admitted to a facility for such treatment and to end on the date the individual is discharged from the facility.

(2) INTENSIVE NONRESIDENTIAL TREATMENT.—For purposes of subsection (a)(3), an episode of intensive nonresidential mental illness and substance abuse treatment—

(A) shall be considered to begin on the date an individual begins participating in a program described in section 1115(d)(1)(A) and to end on the date the individual ceases and such participation; or

(B) shall be considered to begin on the date an individual begins receiving home-based or behavioral aide services described in section 1115(d)(1)(B) and to end on the date the individual ceases to receive such services.

• Page 83, in the item relating to inpatient and residential mental health and substance abuse treatment, strike "health" and insert "illness".

• Page 83, in the item relating to intensive nonresidential mental health and substance abuse treatment, strike "health" and insert "illness".

• Page 83, in the item relating to intensive nonresidential mental illness and substance abuse treatment, after "treatment" insert "(except treatment provided pursuant to section 1115(d)(2)(C)(ii))".

• Page 83, after the item relating to intensive nonresidential mental illness and substance abuse treatment, insert the following:

| | | | |
|---|---|---|---|
| Intensive nonresidential mental illness and substance abuse treatment provided pursuant to section 1115(d)(2)(C)(ii). | 1115 | $25 per visit | 50 percent of applicable payment rate. |

• Page 83, in the item relating to outpatient mental health and substance abuse treatment, strike "health" and insert "illness".

Page 85, line 11, insert ", minus 1" after "1994".

Page 85, line 16, insert "than" after "less".

Page 86, line 12, strike "(other than services referred to in paragraph (2))".

Page 89, line 9, strike "6003(a)" insert "6003".

*[Subtitle C—States Responsibilities]*

Page 91, beginning on line 24, strike "subpart B of part 2 of subtitle F (relating to Federal operation of a State health care system)" and insert "subpart C of part 1 of subtitle F (relating to responsibilities in absence of State systems)".

Page 92, line 7, strike "that contains" and insert ". The update shall contain".

Page 92, line 10, strike "subtitle C" and insert "this Act".

Page 93, line 6, strike "Federal law" and insert "this Act".

Page 93, line 9, insert "subtitles A and B of" before "title X".

Page 94, line 21, strike "requirements" and insert "requirement".

Page 95, line 3, strike "ethnicity" and insert "age".

Page 97, line 19, strike "meet" and insert "meets".

Page 100, line 2, strike "1542(c)" and insert "1541(b)".

Page 100, line 18, insert "subtitles A and B of" before "title X".

Page 101, line 8, strike "1421(a)(1)" and insert "1421(b)(1)".

Page 101, line 13, strike "1421(a)(2)" and insert "1421(b)(2)".

Page 101, line 21, strike "section 1505(i)" and insert "sections 1503(i) and 1551(a)".

Page 102, line 5, strike "section 1505(j)(2)" and insert sections 1503(i) and 1552".

Page 104, line 9, insert "of the plan" after "inability".

Page 105, line 1, insert "(A)" after "(2)".

Page 105, line 3, strike "and" and insert "or".

Page 105, line 4, strike "(3)" and insert "(B)".

Page 105, line 15, strike "plan" and insert "system".

Page 109, line 12, strike "in".

Page 111, line 24, insert "health" after "alliance".

Page 112, line 6, strike "1327(a)" and insert "1327".

Page 113, line 10, strike ", except that" and all that follows up to the semicolon on line 15.

Page 114, lines 8 and 14, strike "(4)" and "(5)" and insert "(3)" and "(4)".

Page 114, line 8, strike "PROCESS FOR CONSUMER COMPLAINTS" and insert "OMBUDSMAN OFFICE".

Page 114, line 10, strike "a" and all that follows through line 13 insert "an office of ombudsman).".

*[Subtitle D—Health Alliances]*

Page 115, line 15, strike "title" and insert "subpart".

Page 118, line 2, strike "3" and insert "4".

Page 118, line 5, strike "of a corporate alliance".

• Page 118, line 10, strike "(e)(3)" and insert "(e)(2)".

• Page 118, line 19, strike "(e)(4)" and insert "(e)(3)".

Page 119, line 1, strike "affiliated with a national labor agreement" and insert "maintained by one or more affiliates of the same labor organization, or one or more affiliates of labor organizations representing employees in the same industry,".

Page 120, line 10, insert "(as defined in section 1901(b)(2)(C))" after "employee".

• Page 120, line 9, strike "LARGE EMPLOYER ALLIANCES" and all that follows through "Each" on line 9 and insert "FULL-TIME EMPLOYEES OF LARGE EMPLOYERS.—Each".

• Page 120, lines 9 through 14, move the indentation 2 ems to the left.

• Page 120, strike line 15 and all that follows through page 121, line 2.

Page 121, beginning on line 18, strike "Each" and all that follows through line 24 and insert the following: "Each full-time employee of a member of a rural electric cooperative or rural telephone cooperative association which has an election in effect as a corporate alliance (and each full-time employee of such a cooperative or association) is eligible to enroll in a corporate alliance health plan offered by such corporate alliance.".

Page 122, line 3, strike "1013(b)" and insert "1013".

• Page 122, strike lines 23 and 24.

• Page 123, lines 1, 10, 17, and 22, and page 124, line 1, strike "(2)", "(3)", "(4)", "(5)", and "(6)" and inserting "(1)", "(2)", "(3)", "(4)", and "(5)".

• Page 123, line 12, strike ", not including" and all that follows up to the period on line 15.

Page 124, line 23, strike "to provide notice of their intent".

Page 125, line 9, strike "such report is submitted" and insert "which the employer first becomes such a sponsor".

Page 125, line 20, strike "the second" and all that follows through line 22 and insert "March 1, 1996.".

Page 127, line 13, insert "subject to section 6022(a)(1)," after "(1)".

Page 129, line 7, strike "premium exceeds 120 percent of the weighted-average premium within the alliance" and insert "bid exceeds 120 percent of the regional alliance per capita premium target (as determined under section 6003)".

Page 129, line 18, strike "health" and insert "regional".

Page 129, line 19, insert "(as defined in section 1902(14))" after "eligible enrollee".

Page 129, line 24, insert "REGIONAL" before "ALLIANCES".

Page 132, line 20, strike "to be" after "and".

Page 136, line 11, strike "The" and insert "Consistent with part 2 of subtitle B of title V, the".

Page 137, line 22, strike "1021" and insert "1011".

Page 140, line 15, insert "eligible" after "unenrolled".

Page 140, line 25, insert "1322(c)" after section".

Page 144, line 24, insert "or participation" after "ment".

Page 145, line 22, strike "Each" and insert "Before each open enrollment period each".

Page 146, strike the sentence beginning on line 2.

Page 146, line 18, strike "5005(d)(1)" and insert "5005(c)(1)".

Page 146, line 20, insert ", consistent with section 1404," after "shall".

Page 147, line 7, insert "the" after "of".

Page 147, line 24, strike "health" and insert "regional".

Page 147, line 25, strike "gender, ethnicity" and insert "sex, national origin".

Page 149, line 17, strike "shall" the first place it appears.

Page 150, line 6, strike "paragraphs" and insert "subsections".

Page 150, at the end of line 9, insert the following: "The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act."

Page 150, line 11, insert "**OF REGIONAL ALLIANCES**" before "**RELATING**".

Page 153, line 8, insert "(as defined in subsection (b)(1)(B))" after "premiums".

Page 153, line 26, insert "amount (as defined in subsection (b)(2)(B))" after "payment".

Page 155, line 11 strike ", 6125," and insert "through".

Page 156, line 11, insert "REPAYMENT" after "CREDIT".

Page 156, line 12, insert "repayment amount" after "credit".

Page 159, line 2, strike "1895" and insert "1894".

Page 159, line 3, insert ", added by section 4003" after "Act".

Page 160, line 22, and page 161, line 8, strike "mail" and insert "provide".

Page 162, line 10, strike "6103" and insert "6104".

Page 162, line 11, strike "verification" and insert "reconciliation".

Page 162, line 12, strike "described in" and insert "for use under".

Page 162, line 17, insert "the" before "Secretary".

Page 162, line 18, strike "eligibility" and insert "eligibility".

Page 162, line 22, strike "verification form" and insert "reconciliation statement".

Page 163, line 14, strike "the information required to file income reconcilation" and insert "to file income reconciliation".

Page 164, line 5, strike "5201" and insert "5101".

Page 165, line 2, strike ", and no" and insert ", No".

Page 166, line 17, strike "and such" and insert ", Such".

Page 167, line 11, strike "section" and insert "subsection".

Page 168, line 13, strike "1895" and insert "1894".

Page 168, line 20, insert "by the family" after "owed".

Page 169, line 24, strike "1012(e)(2))" and insert "1012(e)(1)".

Page 171, amend lines 18 and 19 to read as follows:

(A) such amount multiplied by the sum of—

(i) the administrative allowance percentage for the regional alliance, computed by the alliance under section 1352(b), and

(ii) 1.5 percentage points; and

Page 172, line 3, strike "CONSOLIDATED" and all that follows through "(2)" on line 10 and insert "APPLICATION OF PORTION OF SET ASIDE.—Amounts attributable to subsection (b)(2)(A)(ii)".

Page 173, line 5, strike "section" and insert "subtitle".

Page 173, line 9, strike "this section" and insert "section 6201(a)".

Page 174, line 1, strike "section" and insert "subtitle".

Page 174, line 8, strike "this section" and insert "section 6201(a)".

Page 175, line 19, insert "section" after "under".

Page 175, line 21, insert "the" after "of".

Page 176, line 4, strike "section 1343" and insert 'subpart A".

Page 176, line 6, strike "1343(d)" and insert "1345(d)".

Page 176, line 14, strike "each year".

Page 176, line 16, strike "resulting from" and all that follows through line 18 and insert "attributable to section 1351(b)(2)(A)(ii).".

Page 179, line 4, strike "9201(b)(1)(D)" and insert "9201(e)(1)".

• Page 181, line 10, insert "under subsection (c)(1)" after "cost sharing".

• Page 181, strike line 23 and all that follows through page 182, line 9, and insert the following:

(2) SPECIAL TREATMENT OF CERTAIN AFDC AND SSI FAMILIES.—In the case of an AFDC or SSI family enrolled in a lower or combination cost sharing plan or receiving a reduction in cost sharing under paragraph (1), the amount of copayment applied with respect to an item or service (other than with respect to hospital emergency room services for which there is no emergency medical condition, as defined in section 1867(e)(1) of the Social Security Act) shall be an amount equal to 20 percent of the copayment amount otherwise applicable under sections 1135 and 1136, rounded to the nearest dollar.

Page 184, line 17, strike "that" and insert "the".

Page 186, line 23, strike "in the family adjusted income (as defined by the Secretary)" and insert "(as defined by the Secretary) in the family adjusted income".

Page 188, line 7, strike "**REDUCTIONS**" and insert "**DISCOUNTS**".

Page 189, line 19, strike "sec-" and insert "subsec-".

Page 191, line 4, strike "reduction" and insert "discount".

Page 191, line 8, strike "(e)" and insert "(f)".

Page 191, line 19, strike "an an" and insert "an".

Page 191, line 20, strike "(f)" and insert "(g)".

Page 192, lines 1 and 5, strike "(g)" and "(h)" and insert "(h)" and "(i)".

Page 193, line 16, strike "PREMIUM PREMIUM" and insert "PREMIUM".

Page 197, line 25, strike "1322(b)(3)" and insert "1322(b)(2)".

Page 198, line 24, and page 199, lines 2 and 5, strike "an" and insert "a corporate".

Page 200, line 6, strike "subpart" and insert "part".

Page 202, line 4, insert "area" after "premium".

Page 203, line 4, strike "1327(a), 1328(a), and 1328(b)" and insert "1327, and 1328".

Page 205, line 8, strike "sections 1395 and 1396" and insert "sections 1394, 1395, and 1396".

Page 205, line 23, insert a comma after "plan".

Page 208, line 8, strike "(d)" and insert "(a)".

? Page 208, beginning on line 21, strike "covered individuals" and insert "enrolled individuals".

Page 208, line 25, and page 209, line 20, insert "Health Plan" after "Alliance".

Page 210, line 23, strike "(b)" and insert "(c)".

Page 211, line 13, strike "subsection" and insert "section".

Page 212, line 10, strike "paragraph (1)" and insert "this section".

Page 213, line 11, strike "sub-".

Page 213, line 16, insert "of Labor" after "retary".

Page 213, line 19, strike "1396" and insert "1395".

Page 214, line 7, strike "section" and insert "part".

Page 214, line 8, strike "make" and insert "authorize".

Page 214, line 15, strike "(4)" and insert "(3)".

Page 214, line 19, strike "fund" and insert "Fund".

Page 214, line 23, and page 217, line 9, insert "of Labor" after "Secretary".

Page 215, line 4, and page 216, line 19, strike "(4)" and insert "(3)".

• Page 215, line 14, insert after the period the following: "The total balance of the Fund obligations outstanding at any time shall not exceed $500,000,000.".

Page 216, line 14 and 16, strike "the Secretary" and insert "such Secretary".

Page 217, line 15, insert "so" after "rates".

Page 218, line 15, strike "Secretary" and insert "Secretary of Labor".

Page 220, line 13, strike "or (D)".

Page 220, line 17, strike "health plan".

Page 221, after line 2, insert the following:

**SEC. 1398. PAYMENTS TO FEDERAL GOVERNMENT BY MULTIEMPLOYER CORPORATE ALLIANCES FOR ACADEMIC HEALTH CENTERS AND GRADUATE MEDICAL EDUCATION.**

(A) IN GENERAL.—A corporate alliance with an eligible sponsor described in section 1311(b)(1)(B) shall make payment to the Secretary of an amount equivalent to the amount (as estimated based on rules established by the Secretary and based on the annual per capita expenditure equivalent calculated under section 6021) that would have been payable by the alliance under section 1353 if the alliance were a regional alliance.

(b) REFERENCE TO EXEMPTION FROM ASSESSMENT.—For provision exempting certain corporate alliance employers participating in an alliance described in subsection (a) from an assessment under section 3461 of the Internal Revenue Code of 1986, as added by section 7121 of this Act, see section 3461(c)(1) of such Code.

*[Subtitle E—Health Plans]*

Page 221, line 8, insert "applicable to health plans" after "4".

Page 221, line 13, strike "with respect" and all that follows through line 15 and insert the following: "which is a self-insured health plan and with respect to which the applicable requirements of title I of the Employee Retirement Income Security Act of 1974 are met.".

Page 221, line 20, strike "1522(e)" and insert "1522(b)".

Page 224, line 2, insert "discriminate, or" after "may".

Page 224, line 5, insert a comma after "discriminating".

Page 224, lines 6, strike "gender, income" and insert "sex, language, socio-economic status, age, disability".

Page 224, line 16, strike "or gender" and insert "sex, language, age or disability".

Page 224, line 18, strike "income," and insert "socio-economic status, disability,".

Page 224, line 21, strike "NORMAL OPERATION OF HEALTH PLAN" and insert "BUSINESS NECESSITY".

Page 225, line 1, strike "is necessary to the normal operation of the health plan" and insert "is required by business necessity".

Page 225, line 6, strike "in an accessible form".

Page 227, line 21, strike "1364" and insert "1384".

Page 228, line 13, strike "health" and insert "regional".

Page 231, line 4, insert "and in the case of emergency services without regard to prior authorization" after "plan".

Page 233, line 14, insert "regional alliance" after "Each".

Page 234, line 16, insert "of" after "use".

Page 238, line 10, page 239, line 13, and page 240, line 10, strike "alliance-eligible" and insert "alliance eligible".

Page 238, line 18, strike "such" and insert "this".

Page 239, line 17, strike "title II" and insert "subtitle B".

Page 240, line 5, strike "part B of".

Page 241, at the end of line 25, insert the following: "The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act."

Page 242, line 18, strike "schedule" and insert "table".

Page 244, line 3, strike "8204" and insert "8203".

Page 244, line 4, strike "offers" and insert "offer".

Page 246, line 16, strike "health" and insert "regional".

Page 248, line 1, strike "regional alliance".

Page 250, line 20, strike "APPROVAL" and insert "DISAPPROVAL".

Page 251, line 14, strike "House of Representatives" and insert "Senate".

*[Subtitle F—Federal Responsibilities]*

Page 252, lines 7 and 12, strike "VIII" and insert "X".

Page 253, line 24, strike "as provided above".

Page 254, line 5, strike "right" and insert "authority".

Page 254, line 8, strike "Act" and insert "act".

Page 254, line 22, insert "nursing, or other clinical practices," after "medicine,".

Page 257, line 12, insert "and" after the comma.

Page 257, line 22, strike "part 3 of this subtitle" and insert "subpart E of this part".

Page 257, strike lines 24 and 25 and lines 1 and 2 on page 258.

Page 258, lines 3 and 6, strike "(j)" and "(k)" and insert "(i)" and "(j)".

Page 258, line 5, strike "subpart G" and insert "subpart F".

Page 261, line 3, strike "1200(a)" and insert "1200(b)".

Page 261, line 12, strike "1201(a)" and insert "1200(b)".

Page 261, line 18, strike "1996" and insert "1996".

Page 261, line 19, strike "part" and insert "subpart".

Page 263, line 8, strike "established".

Page 264, line 12, strike "1513" and insert "1512(b)(2)".

Page 265, line 23, strike "and the Secretary of the Treasury".

Page 265, line 24, strike "subpart B" and insert "subpart C".

Page 268, line 23, strike "for medical education training programs funds".

Page 269, line 25, insert "for grants under this subsection" after "1996".

Page 270, line 3, strike "of".

Page 270, line 20, insert "for grants under this subsection" after "1998".

Page 270, strike lines 21 through 23.

Page 271, line 15, strike "1512(2)" and insert "1512(b)(2)".

Page 272, line 18, strike "1562" and insert "1552".

Page 274, line 22, strike "of the classes" and insert "class".

Page 275, line 6, strike "class of family enrollment of coverage of a married couple without children" and insert "couple-only class of family enrollment".

Page 277, line 12, remove the space after "PAYMENTS".

Page 277, line 15, strike "(b)" and insert "(c)".

Page 278, line 13, strike "1346(b)(3)" and insert "1361(b)(3)".

Page 278, line 17, strike "1324(c)" and insert "1351(b)".

Page 279, line 9, strike "(b)" and insert "(c)".

Page 280, line 21, strike "(c)" and insert "(d)".

Page 280, line 23, strike "5102(a)" and insert "5120(a)".

Page 281, line 20, strike "part" and insert "subpart".

Page 282, line 18, strike "1203(c)" and insert "1204(a)".

Page 282, line 19, strike "paragraph (3)" and insert "subsection (c)".

Page 287, line 5, strike the colon and insert a dash.

Page 287, line 11, strike "302(b)(4)(A)" and insert "802(b)(4)(A)".

Page 287, line 12, strike "and".

Page 287, line 15, strike the period and insert a semicolon.

Page 287, after line 15, insert the following:

(E) cost effectiveness relative to the cost of alternative course of treatment options, including non-pharmacological medical interventions; and

(F) improvements in quality of life offered by the new product, including ability to return to work, ability to perform activities of daily living, freedom from attached medical devices, and other appropriate measurements of quality of life improvements.

Page 288, line 4, insert a comma after "pharmacy".

Page 289, line 19, strike "described" and insert "specified".

Page 290, line 17, strike "XXIII" and insert "XXVI".

Page 291, line 5, insert ")" after "Act".

Page 291, line 11, strike "community practice networking" and insert "qualified community practice network".

Page 292, line 9, strike "otherwise" after "would not".

Page 292, line 11, insert "if such a provider was not so certified" after "package".

Page 294, line 18, strike "E" and insert "C".

Page 295, line 22, strike "D of title I" and insert "G".

Page 295, lines 24 and 26, strike "health".

Page 296, line 1, strike "subtitle E of title I" and insert "subtitle D".

Page 298, line 7, strike "1347(c)" and insert "1345(d)(1)".

• Page 298, line 12, insert "section 1607 and" after "out"

Page 298, line 12, insert "including under title XI" after "under this Act".

• Page 298, after line 24, insert the following:

(c) EMPLOYERS PARTICIPATING IN REGIONAL ALLIANCES THROUGH MULTIEMPLOYER PLANS.—In the case of an employer participating in a multiemployer plan, which plan elects to serve as a regional alliance employer on behalf of its participating employers, the employer's payment obligation under section 6121 shall be deemed satisfied if the employer pays to the multiemployer plan at least the premium payment amount specified in section 6121(b) and the plan has assumed legal obligations of such an employer under such section.

*[Subtitle G—Employer Responsibilities]*

Page 299, line 18, strike "for purposes of section 6121(d)" and insert "under section 1901(b)(2)".

Page 301, line 8, strike "qualified" and insert "qualifying".

Page 301, line 13, strike the period and insert a colon.

Page 301, line 22, strike "for purposes of section 6121(d)" and insert "under section 1901(b)(2)".

Page 302, line 17, strike "6121(d)" and insert "1901(b)(2).

Page 303, line 6, strike "qualified" and insert "qualifying".

Page 305, line 25, strike "be" and insert "by".

Page 306, line 21, strike "subsection" and insert "section".

Page 307, line 14, insert "and" after the comma.

Page 312, line 4, strike "part 2 of".

• Page 312, strike lines 8 through 12 and insert the following:

(a) IN GENERAL.

(1) EQUAL VOLUNTARY EMPLOYER PREMIUM PAYMENT REQUIREMENT.—

(A) REGIONAL ALLIANCE HEALTH PLANS.—If an employer makes available a voluntary employer premium payment (as defined in subsection (d)) on behalf of a full-time employee (as defined in section 1901(b)(2)(C)) who is enrolled in a regional alliance health plan of a regional alliance in a class of family enrollment, the employer shall make available such a voluntary employer premium payment in the same dollar amount to all qualifying employees (as defined in section 1901(b)(1)) of the employer who are enrolled in any regional alliance health plan of the same alliance in the same class of family enrollment.

(B) CORPORATE ALLIANCE HEALTH PLANS.—If a corporate alliance employer makes available a voluntary employer premium payment on behalf of a full-time employee who is enrolled in a corporate alliance health plan of a corporate alliance in a class of family enrollment in a premium area (designated under section 1384(b)), the employer shall make available such a voluntary employer premium payment in the same dollar amount to all qualifying employees of the employer enrolled in any corporate alliance health plan of the same alliance in the same class of family enrollment in the same premium area.

(C) TREATMENT OF PART-TIME EMPLOYEES.—In applying subparagraphs (A) and (B) in the case of a qualifying employee employed on a part-time basis (within the meaning of section 1901(b)(2)(A)(ii)), the dollar amount shall be equal to the full-time employment ratio (as defined in section 1901(b)(2)(B)) multiplied by the dollar amount otherwise required.

(2) LIMIT ON VOLUNTARY EMPLOYER PREMIUM PAYMENTS.—

(A) REGIONAL ALLIANCE HEALTH PLANS.—An employer may not make available a voluntary employer premium payment on behalf of an employee (enrolled in a regional alliance health plan of a regional alliance in a class of family enrollment) in an amount that exceeds the maximum amount that could be payable as the family share of premium (described in section 6101(b)(2)) for the most expensive regional alliance health plan of the same alliance for the same class of family enrollment.

(B) CORPORATE ALLIANCE HEALTH PLANS.—An employer may not make available a voluntary employer premium payment on behalf of an employee (enrolled in a corporate alliance health plan of a corporate alliance in a class of family enrollment in a premium area, designated under section 1384) in an amount that exceeds the maximum amount that could be payable as the family share of premium (described in section 6101(b)(3)) for the most expensive corporate alliance health plan of the same alliance for the same class of family enrollment in the same premium area.

(C) EXCLUSION OF PLANS WITHOUT MATERIAL ENROLLMENT.—Subparagraphs (A) and (B) shall not take into account any health plan that does not have material enrollment (as determined in accordance with regulations of the Secretary of Labor).

(3) NONDISCRIMINATION AMONG PLANS SELECTED.—An employer may not discriminate in the wages or compensation paid, or other terms or conditions of employment, with respect to an employee based on the health plan (or premium of such a plan) in which the employee is enrolled.

Page 312, line 14, strike "paragraph (3)" and insert "subsection (c)".

Page 312, line 17, and page 313, line 16, insert "employer" after "voluntary".

Page 312, line 18, strike "towards the enrollment of the employee in a health plan".

Page 312, amend lines 20 through 23 to read as follows:

(B)(i) the sum of the amount of the applicable alliance credit (under section 6103 and the voluntary employer premium payment, exceeds (ii) the premium for the plan selected.

Page 313, line 2, strike "difference" and insert "excess".

• Page 313, line 20, insert "(other than subsection (a)(2))" after "(b)"

Page 313, line 21, strike "contributions" and insert "premium payments".

Page 313, strike line 23 and all that follows through page 314, line 10.

Page 314, line 11, strike "(e) VOLUNTARY EMPLOYER CONTRIBUTION" and insert "(d) VOLUNTARY EMPLOYER PREMIUM PAYMENT".

Page 314, line 12, strike "contribution" and insert "premium payment".

• Page 314, after line 17, insert the following:

**SEC. 1608. EMPLOYER RETIREE OBLIGATION.**

(a) IN GENERAL.—If an employer was providing, as of October 1, 1993, a threshold payment (specified in subsection (c)) for a person who was a qualifying retired beneficiary (as defined in subsection (b)) as of such date, the employer shall pay to or on behalf of that beneficiary for each month beginning with January 1998, an amount that is not less than the amount specified in subsection (d), but only if and for so long as the person remains a qualifying retired beneficiary.

(b) QUALIFYING RETIRED BENEFICIARY.—In this section, the term "qualifying retired beneficiary" means a person who is an eligible retiree or qualified spouse or child (as such terms are defined in subsections (b) and (c) of section 6114).

(c) THRESHOLD PAYMENT.—The term "threshold payment" means, for an employer with respect to a health benefit plan providing coverage to a qualifying retired beneficiary, a payment—

(1) for coverage of any item or service described in section 1101, and

(2) the amount of which is at least 20 percent of the amount of the premium (or premium equivalent) for such coverage with respect to the beneficiary (and dependents).

(d) AMOUNT.—The amount specified in this subsection is 20 percent of the weighted average premium for the regional alliance in which the beneficiary resides and for the applicable class of family enrollment.

(e) NATURE OF OBLIGATION.—The requirement of this section shall be in addition to any other requirement imposed on an employer under this Act or otherwise.

(f) PROTECTION OF COLLECTIVE BARGAINING RIGHTS.—Nothing in this Act (including this section) shall be construed as affecting collective bargaining rights or rights under collective bargaining agreements.

• Page 314, line 18, strike **"1608"** and insert **"1609".**

*[Subtitle J—General Definitions; Miscellaneous Provisions]*

Page 315, strike lines 1 and 2.

Page 315, line 18, strike "hs" and insert "has".

Page 315, line 19, strike "subtitle C" and insert "section 3121 of such Code, subject to the provisions of chapter 25".

Page 315, line 23, insert "3121" after "section".

Page 318, line 24, strike "qualifying".

Page 320, lines 11 through 15, move the indentation of this subparagraph in 2 ems.

Page 320, after line 15, insert the following:

(D) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under rules established by the Board, an employee who is not described in subparagraph (C) shall be considered to be employed on a full-time basis by an employer (and to be a full-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of the employment in the industry, represents full time employment.".

Page 321, lines 8 through 20, move the indentation of this subparagraph out 2 ems.

Page 321, line 9, strike "EMPLOYEE" and insert "EMPLOYEES".

Page 321, line 9, strike "contigent" and insert "contingent".

Page 321, line 14, insert "wage" after "ly".

Page 322, line 15, strike "101(a)(19)" and insert "101(a)(20)".

Page 323, line 23, and page 330, line 24, insert ", for a month," after "means".

Page 324, line 2, insert "for the month" after "Act".

Page 324, line 23, strike "of title II".

Page 325, line 16, strike "under part 2 of subtitle E".

Page 326, line 22, strike "high" and insert "higher".

Page 327, line 24, strike "established under part 1 of subtitle F of title I" and insert "created under section 1501".

Page 328, line 22, insert "enrollment" after "parent".

Page 329, line 19, strike "means" and all that follows through line 22 and insert "that is not a corporate alliance employer" and insert "means, with respect to an employee, an employer that is not a corporate alliance employer with respect to such employee.".

Page 330, line 1, strike "under part 1 of subtitle E of title I".

Page 331, lines 3 and 6, insert "for the month" before the comma.

Page 331, lines 4 and 7, insert "is" after "who".

Page 331, line 8, strike "such" and insert "the Social Security".

Page 331, line 9, insert "for the month" before the period.

Page 331, line 21, strike "1004(c)" and insert "1005(c)".

Page 332, line 12, insert "a provision of" after "to".

Page 332, line 13, insert "that provision of" after "to".

TITLE II CHANGES

*[Subtitle A—Medicare Outpatient Prescription Drug Benefits]*

Page 336, line 24, strike the semicolon and insert a period.

Page 337, line 7, strike "; and" and insert a period.

• Page 337, strike lines 10 through 13 and insert the following:

"(3) The term 'covered outpatient drug' does not include any product—

"(A) which is administered through infusion in a home setting unless the product is a covered home infusion drug (as defined in paragraph 95));

"(B) when furnished as part of, or as incident to, any other item or service for which payment may be made under this title; or

"(C) which is listed under paragraph (2) of section 1927(d) (other than subparagraph (I) or (J) of such subparagrah) as a drug which may be excluded from coverage under a State plan under title XIX and which the Secretary elects to exclude from coverage under part B.

Page 338, line 14, strike "paragraph" and insert "subparagraph".

Page 338, line 19, insert "or an enteral or parenteral nutrient" after "drug".

Page 339, line 2, strike "his" and insert "the individual's".

Page 339, strike line 21 and all that follows through page 340, line 17 (and redesignate the succeeding subsection accordingly).

Page 346, line 1, strike "for drugs furnished after 1996,".

Page 347, line 11, strike "average manufacturer non-retail price for the drug (as defined in section 1850(f)(2))" and insert "published average wholesale price for the drug".

Page 348, line 13, strike "under paragraph (4)" and insert "established under this paragraph".

Page 349, strike line 20 and all that follows through page 350, line 7 and insert the following:

"(B) PRIOR AUTHORIZATION.—The Secretary may require advance approval for a covered outpatient drug which the Secretary finds is subject to misuse or inappropriate use, is not cost effective, which is a multiple source drug with a restrictive prescription, or is subject to negotiation under section 1850(c)(3). The Secretary may also establish maximum quantities per prescription and limits on the number of prescription refills. The Secretary shall ensure that any advance approval requirements imposed under this subparagraph do not restrict the access of patients to medically necessary covered outpatient drugs on a timely basis, and assure prompt determinations of approval or disapproval and provide a means for providers and patients to appeal a decision to disapprove a drug".

Page 351, insert after line 2 the following (and redesignate the succeeding provision accordingly):

"(8) COUNSELING REQUIREMENTS FOR PHARMACIES.—A pharmacy may not receive any payment under this part for a covered outpatient drug unless the pharmacy agrees to answer questions of individuals enrolled under this part who receive a covered outpatient drug from the pharmacy regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and other matters relating to the dispensing of such drugs.

Page 354, Line 12, strike "substituting" and all that follows through the end of line 13 and insert "striking the period at the end of paragraph (2) and inserting '; and', and ".

Page 354, line 25, strike "1995" and insert "1996".

Page 356, line 9, insert closing quotes after "1834(d),".

Page 357, line 16, strike "either—" and all that follows through page 358, line 3, and insert the following: "dispensed by a pharmacy during such quarter to individuals (other than individuals enrolled with an eligible organization with a contract under section 1876) eligible for benefits under this part, as reported by such pharmacies to the Secretary.".

Page 362, line 23, strike "that are participating pharmacies under this part".

Page 363, line 20, strike "(4)" and insert "(3)".

Page 366, line 18, strike "Administration," and insert "Administration (but in no event earlier than July 1, 1996),".

Page 366, line 20, strike "(if earlier)".

Page 366, line 22, strike the period and insert a comma.

Page 366, after line 22, insert the following: "whichever is earlier.".

Page 370, strike lines 6 through 24 and insert the following:

(b) EXCLUSIONS FROM COVERAGE.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)), as amended by sections 4034(b)(4) and 4118(b), is amended—

(1) by striking "and" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) A covered outpatient drug (as described in section 1861(t))—

"(A) furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1850 for the year, or

"(B) excluded from coverage during the year by the Secretary pursuant to section 1850(c)(3)(D) (relating to negotiated rebate amounts for certain new drugs).".*

Page 371, strike lines 1 through 10 (and redesignate the succeeding sections accordingly).

Page 373, line 9, strike "outpatient" and insert "home infusion".

Page 373, line 11, strike "secretary" and insert "Secretary".

Page 374, lines 13 and 14, strike "(A)" and "(B)" and insert "the entity (i)" and "(ii)".

Page 375, line 9, strike "resect" and insert "respect".

Page 375, line 11, insert "and" after the comma.

Page 378, line 1, strike "after 'home health agency, or whether' ".

Page 379, insert after line 9 the following:

(g) CONFORMING AMENDMENTS RELATING TO COVERAGE OF ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—(1) Section 1834(h)(4)(B) of such Act (42 U.S.C. 1395m(h)(4)(B)) is amended by striking ", except that" and all that follows through "equipment".

(2) Section 1861(s)(8) of such Act (42 U.S.C. 1395x(s)(8)) is amended by inserting after "dental" the following: "devices or enteral and parenteral nutrients, supplies, and equipment".

Page 379, strike line 10 through page 380, line 3 (and redesignate the succeeding sections accordingly).

Page 381, line 4, strike "the Social Security" and insert "such".

Page 381, line 12, strike "both".

Page 381, line 13, insert "enrolled in" after "and".

Page 381, line 21, strike "The" and insert "Except as otherwise provided, the".

*[Subtitle B—Long-term Care]*

Page 382, line 15, strike "in" and insert "for".

Page 382, strike lines 18 through 21.

Page 383, line 1, strike "(except" and all that follows through "period)" on line 2.

Page 383, line 6, strike "program" and insert "plan".

Page 384, lines 20 and 25, and page 386, line 6, strike "State".

Page 385, strike lines 4 through 7.

• Page 387, line 7, strike "during each 5-fiscal-year period (with the first such period beginning with fiscal year 1996)" and insert "for each fiscal year during the period beginning with fiscal year 1996 and ending with fiscal year 2003 and for each 5-fiscal-year periods thereafter".

Page 387, at the end of line 11 insert the following: "If the Secretary makes an adjustment under section 2109(a)(5)(C) for a year, each State shall update the specifications under this paragraph to reflect the impact of such an adjustment.".

Page 388, line 21, strike the second period.

Strike "subpart" and insert "part" at the following places: page 390, lines 2 and 11; page 391, lines 5, 7, and 10; page 394, lines 16 and 24; page 396, line 21; 397, line 20; page 402, line 3; page 403, lines 13 and 24; page 405, line 16; page 408, lines 20 and 21; page 409, lines 9 and 10; page 416, line 24.

Page 390, line 7, strike all that follows the dash up to "The" on line 8 (and move the indentation of lines 8 through 11 2 ems to the left).

Page 390, strike lines 12 through 19.

• Page 390, after line 19, insert the following:

(12) HEALTH CARE WORKER REDEPLOYMENT REQUIREMENT.—The plan provides for compliance with the requirement of section 3074(a).

• Page 391, after line 1, insert the following:

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1996, shall be effective as of January 1, 1996). In order to budget funds allotted under this part, the Secretary may establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year.

Page 392, line 21, strike the comma and insert a semicolon.

Page 394, line 18, strike "in and out of bed".

Page 399, line 2, insert "or" after "Secretary,".

Page 400, line 19, strike "poverty level (as defined in section 1902(25))" and insert "official poverty line (referred to in section 1902(25)(A))".

Page 400, line 20, insert "(determined without regard to section 1902(25(B))" after "involved".

Page 401, lines 3, 7, and 10, strike "the poverty level applicable to a family of the size involved" and insert "such official poverty lines (as so applied)".

• Page 401, lines 3 and 6, strike "250 percent" and insert "200 percent".

• Page 401, line 5, strike "25 percent" and insert "20 percent".

• Page 401, lines 7 and 10, strike "400 percent" and insert "250 percent".

• Page 401, line 9, strike "40 percent" and insert "25 percent".

Page 403, line 17, and page 404, line 6, strike "and a" and insert ". A".

Page 405, line 15, insert ", in accordance with the Cash Management Improvement Act," after "the Secretary".

Page 405, line 15, strike "pay" and insert "authorize payment".

Page 405, line 16, insert "(beginning on or after January 1, 1996)" after "for each quarter".

Page 406, line 19, strike "75" and insert "78".

Page 408, line 2, strike "pay" and insert "provide for payment of".

Page 408, line 19, strike "For" and insert "Subject to paragraph (5)(C), for".

Page 408, lines 23, 24, and 25, strike "4.5", "7.8" and "11.0" and insert "$4.5", "$7.8", and "$11.0".

Page 409, line 1, strike "14.7" and insert "$14.7".

Page 409, line 2, strike "18.7 billion. [$56 to 2000]" and insert "$18.7 billion.".

Page 409, line 4, strike "26.7 billion. [48-56 for out years]" and insert "$26.7 billion.".

Page 409, lines 6 and 7, strike "35.5" and "38.3" and insert "$35.5" and "$38.3".

Page 410, line 9, insert a closing parenthesis after "(b)(3)(D)".

Page 410, line 10, strike "*[review:]*".

• Page 410, line 16, insert "disabled individuals" after "provided".

• Page 410, line 17, insert "such individuals" after "paid for".

Page 410, lines 17, 20, and 22, strike "title" and insert "part".

• Page 410, at the end of line 20, insert the following: "At the time a State first submits its plan under this part and before each subsequent fiscal year (through fiscal year 2003), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2003), as the Secretary determines to be necessary to carry out this paragraph.".

• Page 411, amend lines 1 through 7 to read as follows:

(C) ADJUSTMENTS TO FEDERAL BUDGET.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1996 and ending with fiscal year 2003) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the total Federal budget under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by the Secretary) that would have been made under title XIX of the Social Security Act for home and community based services for disabled individuals but for the provision of similar services under the program under this part.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised total Federal budget under this subsection for such fiscal year (and succeeding fiscal years before fiscal year 2003).

Page 411, line 9, strike "paymet" and insert "payment".

• Page 411, after line 12, insert the following:

(E) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this part.

Page 417, line 3, strike "section 2109(a)" and insert "subsection (a)".

Page 417, line 8, strike "improvement" and insert "improve".

Page 425, line 24, strike all that follows the dash up to "The" on page 426, line 2.

Page 426, lines 5 and 9, strike "(i)" and "(ii)" and insert "(A)" and "(B)".

Page 426, lines 5 and 15, move indentation 2 ems to the left.

Page 430, line 18, strike "in and out of bed".

Page 446, line 12, strike "premiums" and insert "premiums)".

TITLE III CHANGES

*[Subtitle A—Workforce]*

Page 497, line 24, strike "(a)(1)" and insert "(c)(1)".

Page 498, line 10, strike "**OF**" and insert "**REGARDING**".

Page 498, line 19, insert "For purposes of this subtitle:" after the dash.

Page 498, line 20, and page 499, line 9, strike "For purposes of this subtitle, the" and insert "The".

• Page 499, after line 15, insert the following:

(C) The term "approved physician training program" includes any post-graduate program described in subparagraph (A), whether operated by academic health centers, teaching hospitals, multispecialty group practices, ambulatory care providers, prepaid health plans, or other entities.

Page 500, line 11, strike "approved physician training" and insert "eligible".

Page 500, line 15, insert "all medical, surgical, and other physician specialties and" before "subspecialties".

Page 500, line 21, insert ", pursuant to section 3011," after "shall".

Page 500, line 22, strike "under section 3011".

• Page 501, line 5, strike "2002-03" and insert "1998-99".

Page 503, line 3, strike "MINIMUM TOTAL" and insert "TOTAL".

• Page 503, line 6, strike "2003-04" and insert "1998-99".

• Page 503, line 17, strike "2003-04 through 2007-08" and insert "1998-99 through 2002-03".

Page 504, line 11, strike ", with respect" and all that follows through line 14 and insert "means a position as a training participant.".

Page 505, line 18, strike "RESIDENCY".

Page 505, line 24, strike "each of the" and insert "such".

• Page 507, amend lines 5 through 21 to read as follows:

(a) IN GENERAL.—In the case of an approved physician training program that in accordance with section 3032 submits to the Secretary an application for calendar year 1996 or any subsequent calendar year, the Secretary shall make payments for such year to the program for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3033, and may administer the payments as a contract, grant, or cooperative agreement.

Page 508, line 1, strike "program" and insert "approved physician training program involved".

Page 508, line 10, strike "3031" and insert "3031(a)".

Page 508, line 11, insert "for a calendar year" after "section".

Page 508, line 16, insert "the application demonstrates that" after "(2)".

Page 508, line 20, strike "assurances of compliance with such agreements that are satisfactory to the Secretary" and insert "such assurances of compliance with the agreements as the Secretary may require".

• Page 509, strike line 16 and all that follows through page 510, line 23, and insert the following:

(a) ANNUAL HEALTH PROFESSIONS WORKFORCE ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2) and section 3034, the amount available for a calendar year for making payments under sections 3031 and 3051 (constituting an account to be known as the annual health professions workforce account) is the following, as applicable to the calendar year:

(A) In the case of calendar year 1996, $3,200,000,000.

(B) In the case of calendar year 1997, $3,550,000,000.

(C) In the case of calendar year 1998, $4,800,000,000.

(D) In the case of each of the calendar years 1999 and 2000, $5,800,000,000.

(E) In the case of each subsequent calendar year, the amount specified in subparagraph (D) increased by the product of such amount and the general health care inflation factor for such year (as defined in subsection (d)).

(2) TRANSITIONAL PROVISION.—

(A) With respect to making payments under sections 3031 and 3051 for calendar year 1996 or 1997, the Secretary shall first make payments under section 3031 to eligible programs described in subparagraph (B) in the amount determined for the programs under subsection (b) for such year, and then, from such amounts as remain available in the annual health professions workforce account for such year, shall make payments under section 3031 to other eligible programs and shall make payments under section 3051.

(B) An eligible program described in this subparagraph is such a program that is operated in a State that is a participating State under title I.

Page 511, line 2, strike "determined by the Secretary under subsection (a) for the calendar year involved" and insert "available for a calendar year".

Page 511, line 10, strike "an individual" and insert "such a participant".

Page 511, line 12, strike "(2)(B)" and insert "(2)".

Page 511, line 25, strike "an individual" and insert "a participant in an approved physician training program in the medical specialty involved".

• Page 512, line 7, strike "the general health care inflation factors for such years (or if there is no such factor for a calendar year, the consumer price index for the year)" and insert "the consumer price index".

• Page 512, after line 16, insert the following (and redesignate the succeeding subsection accordingly):

(c) LIMITATION.—If, subject to subsection (a)(2), the annual health professions workforce account available for a calendar year is insufficient for providing each eligible program with the amount of payments determined under subsection (b) for the program for such year, the Secretary shall make such pro rata reductions in the amounts so determined as may be necessary to ensure that the total of payments made under section 3031 for such year equals the total of such account.

Page 512, line 19, strike ", with respect to a calendar year, means the amount determined under subsection (a) for such year" and insert "means the account established pursuant to subsection (a)(1)".

Page 513, line 6, strike "annual health professions workforce account under section 3033(a)" and insert "amount specified in section 3033(a)(1) for the annual health professions workforce account".

• Page 513, line 18, strike "and transferred" and all that follows through line 20 and insert the following:

and—

(A) in the case of each of the calendar years 1996 and 1997, transferred in an amount equal to 50 percent of such payments made for the calendar year involved; and

(B) in the case of calendar year 1998 and each subsequent calendar year, transferred in an amount equal to the aggregate regional alliance portion determined under subsection (c)(2)(A).

• Page 514, lines 3 and 17, insert "(other than calendar year 1996 or 1997)" after "year".

Page 514, line 9, insert "the amount specified in section 3033(a)(1) for" after "(A)".

Page 515, line 7, strike "each calendar year" and inset "calendar year 1996 and each subsequent calendar year".

• Page 515, line 9, strike "appropriated" and all that follows through line 11 and insert the following:

appropriated—

(A) in the case of each of the calendar years 1996 and 1997, an amount equal to the difference between—

(i) the amount specified in section 3033(a)(1) for the annual health professions workforce account for the calendar year involved; and

(ii) the sum of the amount transferred under section 4051 for such year and the amount transferred under subsection (b)(2)(A) for such year; and

(B) in the case of calendar year 1998 and each subsequent calendar year, an amount equal to the aggregate corporate alliance portion determined under subsection (c)(2)(B) for the calendar year involved.

Page 515, line 16, strike "(1)" and insert "(1)(B)".

• Page 515, after line 19, insert the following:

(3) GRADUATE NURSE EDUCATION.—Effective January 15 of calendar year 1996 and each subsequent calendar year, there is hereby transferred to the Secretary, out of any money in the Treasury not otherwise appropriated, 50 percent of the amount specified in section 3063(b) with respect to the annual graduate nurse training account.

Page 516, lines 10 and 18, and page 517, line 3, strike "3033(c)" and insert "3033(d)".

• Page 517, strike line 20 and all that follows through page 519, line 2 and insert the following:

(a) PAYMENTS REGARDING EFFECTS OF SUBPART B ALLOCATIONS.—For each of the four calendar years specified in subsection (b)(2), in the case of an institution that submits to the Secretary an application for such year in accordance with subsection (d), the Secretary shall make payments for the year to the institution for the purpose specified in subsection (c). The secretary shall make the payments in an amount determined in accordance with subsection (e), and may administer the payments as a contract, grant, or cooperative agreement.

(b) INSTITUTIONS LOSING SPECIALITY POSITIONS; RELEVANT YEARS REGARDING PAYMENTS.—

(1) INSTITUTIONS LOSING SPECIALITY POSITIONS.—The Secretary may make payments under subsection (a) to an institution only if, with respect to the calendar year involved, the institution meets the following conditions:

(A) The institution operates one or more programs that—

(i) are approved physician training programs; and

(ii) are receiving payments under section 3031 for such year.

(B) The aggregate number of speciality positions in such programs (in the medical specialities with respect to which such payments are made) is below the aggregate number of such positions at the institution for academic year 1993–94 as a result of allocations under subpart B.

(2) RELEVANT YEARS.—The Secretary may make payments under subsection (a) to an institution only for the first four calendar years after calendar 1997 for which the institution meets the conditions described in paragraph (1).

(3) ELIGIBLE INSTITUTION.—For purposes of this section, the term "eligible institution" means an institution that submits to the Secretary an application in accordance with subsection (d).

Page 519, line 6, insert "involved" after "institution".

Page 519, line 12, insert "application demonstrates that the institution meets the conditions described in subsection (b)(1) and that the" after "Secretary; the".

Page 519, line 16, strike "section and provides assurances of compliance with such agreements satisfactory to the Secretary" and insert "subpart and the application provides such assurances of compliance with the agreements as the Secretary may require".

Page 519, line 21, strike "section" and insert "subpart".

Page 519, line 24, strike "determined by the Secretary under section 3033(a)" and insert "available".

Page 519, line 25, strike "the calendar" and insert "such".

Page 520, line 11, insert "aggregate" before "number".

• Page 520, amend lines 19 through 22 to read as follows:

(A) For the first calendar year after calendar 1997 for which the eligible institution involved meets the conditions described in subsection (b)(1), 100 percent.

(B) For the second such year, 75 percent.

(C) For the third such year, 50 percent.

(D) For the fourth such year, 25 percent.

Page 521, line 1, strike "section, the" and insert "subsection, the aggregate".

Page 521, lines 4 and 9, insert "aggregate" before "number".

Page 521, line 6, insert "eligible" before "institution".

Page 521, line 16, strike "programs of the" and insert "the approved physician training programs of the eligible".

Page 522, line 2, strike "health care".

• Page 522, line 4, strike "general health care inflation factors" and all that follows through line 7 and insert "consumer price index.".

• Page 522, after line 13, insert the following:

**PART 2—INSTITUTIONAL COSTS OF GRADUATE NURSING EDUCATION; WORKFORCE PRIORITIES**

**SEC. 3061. NATIONAL COUNCIL; AUTHORIZED GRADUATE NURSE TRAINING POSITIONS; INSTITUTIONAL COSTS.**

(a) PROGRAM REGARDING GRADUATE NURSE TRAINING PROGRAMS.—The Secretary shall, in accordance with this part, carry out a program with respect to graduate nurse training programs that is equivalent to the program carried out under part 1 with respect to approved physician training programs.

(b) DEFINITIONS.—For purposes of this part:

(1) The term "graduate nurse training programs" means programs for advanced nurse education, programs for education as nurse practitioners, programs for education as nurse midwives, programs for education as nurse anesthetists, and such other programs for training in clinical nurse specialities as are determined by the Secretary to require advanced education.

(2) The term "graduate nurse training position" means a position as a individual who is enrolled in a graduate nurse training program.

(3) The term "programs for advanced nurse education" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 821 of the Public Health Service Act.

(4) The term "programs for education as nurse practitioners" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as nurse practitioners.

(5) The term "programs for education as nurse midwives" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as nurse midwives.

(6) The term "programs for education as nurse anesthetists" means programs meeting the conditions to be programs for which awards of grants may be made under section 831 of the Public Health Service Act for education as nurse anesthetists.

**SEC. 3062. APPLICABILITY OF PART 1 PROVISIONS.**

(a) IN GENERAL.—The provisions of part 1 apply to the program carried out under section 3061 to the same extent and the same manner as such provisions apply to the program carried out under part 1, subject to the subsequent provisions of this section. Section 3051 does not apply for purposes of the preceding sentence.

(b) NATIONAL COUNCIL.—With respect to section 3001 as applied to this part, the council shall be known as the National Council on Graduate Nurse Education (in this part referred to as the "National Council"). The provisions of section 851 of the Public Health Service Act regarding the composition of the council under such section apply to the composition of the National Council to the same extent and in the same manner as such provisions apply to the council under such section 851.

(c) ALLOCATION OF GRADUATE NURSE TRAINING POSITIONS; FORMULA PAYMENTS FOR OPERATING COSTS.—With respect to subparts B and C of part 1 as applied to this part—

(1) the funding agreement described in section 3011 is to be made by graduate nurse training programs;

(2) designations under section 3012 and allocations under section 3013 apply to graduate nurse training positions; and

(3) payments under section 3031 are to be made to graduate nurse training programs, subject to the requirements for such payments.

**SEC. 3063. FUNDING.**

(a) IN GENERAL.—With respect to sections 3033 and 3034 as applied to this part, the provisions of this section apply.

(b) ANNUAL GRADUATE NURSE TRAINING ACCOUNT.—Subject to subsection (c), the amount available for each calendar year for making payments pursuant to section 3062(c)(3) to graduate nurse training programs (constituting an account to be known as the annual graduate nurse training account) is $200,000,000.

(c) SOURCES OF FUNDS FOR ACCOUNT.—The amount specified in subsection (b) for the annual graduate nurse training account for a calendar year shall be derived from the following sources:

(1) The transfer under section 3034(d)(3).

(2) The transfer under section 3104(d)(3).

Page 522, line 14, strike "**2**" and insert "**3**".

• Page 522, strike line 15 and all that follows through page 523, line 5.

Page 523, line 6, strike "**3062**" and insert "**3071**".

• Page 523, amend lines 8 through 11 to read as follows:

(a) IN GENERAL.—

(1) FUNDING.—For purposes of carrying out the programs described in this section, there is authorized to be appropriated $400,000,000 for fiscal year 1994 and each subsequent fiscal year (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs).

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Health and Human Services.

Page 523, line 13; page 524, lines 6 and 19; page 525, line 14; and page 526, lines 8 and 25 strike "section 3061" and insert "subsection (a)".

Page 524, line 5, strike "(b)" and insert "(c)".

Page 524, line 19, strike "(c)" and insert "(d)".

Page 524, line 20, strike "include" and all that follows through "A" on line 22 and insert "include a".

Page 525, strike lines 8 through 13.

• Page 525, after line 13, insert the following:

(e) INAPPROPRIATE PRACTICE BARRIERS; FULL UTILIZATION OF SKILLS.—for purposes of subsection (a), the programs described in this section include a program—

(1) to develop and encourage the adoption of model professional practice statutes for advanced practice nurses and physical assistants, and to otherwise support efforts to remove inappropriate barriers to practice by such nurses and such physician assistants; and

(2) to promote the full utilization of the professional education and clinical skills of advanced practice nurses and physician assistants.

Page 525, lines 14 and 20, strike "(d)" and "(e)" and insert "(f)" and "(g)".

Page 526, line 1, strike "**3063**" and insert "**3072**".

• Page 526, amend lines 2 through 5 to read as follows:

(a) IN GENERAL.—

(1) FUNDING.—For purposes of carrying out the programs described in this section, and for carrying out section 3073, there is authorized to be appropriated $200,000,000 for fiscal year 1994 and each subsequent fiscal year (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs).

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Labor (in this section referred to as the "Secretary").

Page 526, line 7, strike "JOB BANKS" and insert "WORKFORCE ADJUSTMENT PROGRAMS".

• Page 526, amend lines 11 through 13 to read as follows:

(A) A program for skills upgrading and occupational retraining (including retraining health care workers for more advanced positions as technicians, nurses, and physician assistants), and for quality and workforce improvement.

• Page 526, amend lines 17 through 21 to read as follows:

(C) A program to develop and operate health-worker job banks in local employment services agencies, subject to the following:

(i) Such job banks shall be available to all health care providers in the community involved.

(ii) Such job banks shall begin operation not later than 90 days after the date of the enactment of this Act.

(D) A program to provide for joint labor-management decision-making in the health care sector on workplace matters related to the restructuring of the health care delivery system provided for in this Act.

Page 527, line 3, strike ", and for establishing and operating the Institute authorized in section 3064".

Page 527, line 15, strike "and" and insert "an".

• Page 527, amend lines 23 through 25 to read as follows:

(1) Joint labor-management implementation and administration.

Page 528, line 8, strike "**3064**" and insert "**3073**".

• Page 528, line 12, strike "may" and insert "shall".

• Page 528, line 13, strike "The subsequent provisions of this section apply to any such Institute.".

• Page 528, line 23, strike "the system of" and insert "proper staffing of the health care delivery system serving the".

Page 528, line 25, strike "and".

• Page 529, line 1, strike "of such system on health care workers and the needs of such workers with respect to the system" and insert "this Act, and of related changes regarding health care, on health care workers and the needs of such workers with respect to such matters".

• Page 529, line 5, strike the period and insert "; and" and the following:

(C) the development and implementation of high-performance, high-quality health care delivery systems, including employee participation committee systems and employee team systems, that will contribute to the development of better, more effective health care by increasing the role, the responsibilities and the area of independent decision-making authority of health care workers.

• Page 529, amend lines 8 through 10 to read as follows:

JOB BANKS, AND HIGH-PERFORMANCE WORKPLACES.—The Secretary of Labor is authorized to—

(A) carry out section 3070 acting through the Director of the Institute; and

(B) implement the recommendations of the Director regarding employee participation committees and other high-performance systems.

Page 530, line 12, strike "(c)" and insert "(d)".

• Page 530, after line 12, insert the following (and redesignate the succeeding paragraphs accordingly):

(2) The term "employee participation committees" means committees of workers independently drawn from the facility's workforce, or selected by unions where collective bargaining agreements are in effect, and which operate without employer interference and consult with management on issues of costs and efficiency, workplace reorganizations, productivity, and quality of care.

*[Subtitle B—Academic Health Centers]*

• Page 530, strike line 25 and all that follows through "the Secretary shall" on page 531, line 4 and insert the following:

(a) IN GENERAL.—In the case of a qualified academic health center or qualified teaching hospital that in accordance with section 3102 submits to the Secretary a written request for calendar year 1996 or any subsequent calendar year, the Secretary shall

• Page 531, strikes lines 11 through 16.

Page 531, line 18, strike "CENTERS" and insert "INSTITUTIONS".

Page 531, line 19, strike "academic health center" and insert "eligible institutions".

Page 531, beginning on line 21, strike "such centers" and insert "such institutions".

• Page 531, line 23, after the period insert the following:

Such costs include—

(1) with respect to productivity in the provision of health services, costs resulting from the reduced rate of productivity of faculty due to teaching responsibilities;

(2) the uncompensated costs of clinical research; and

(3) exceptional costs associated with the treatment of health conditions with respect to which an eligible institution has specialized expertise (including treatment of rare diseases, treatment of unusually severe conditions, and providing other specialized health care).

• Page 531, strike line 24 and all that follows through page 532, line 3, and insert the following:

(c) DEFINITIONS.—

(1) ACADEMIC HEALTH CENTER.—For purposes of this subtitle, the term "academic health center" means an entity that—

(A) operates a school of medicine or osteopathic medicine, as defined in section 799 of the Public Health Service Act;

(B) operates, or is affiliated with, one or more other types of schools or programs described in such section, or with one or more schools of nursing (as defined in section 853 of such Act); and

(C) operates, or is affiliated with, one or more teaching hospitals.

(2) TEACHING HOSPITAL.—For purposes of this subtitle, the term "teaching hospital" means a hospital that operates an approved physician training program (as defined in section 3011(b)).

(3) QUALIFIED CENTER OR HOSPITAL.—For purposes of this subtitle:

(A) The term "qualified academic health center" means an academic health center that operates a teaching hospital.

(B) The term "qualified teaching hospital" means any teaching hospital other than a teaching hospital that is operated by an academic health center.

(4) ELIGIBLE INSTITUTION.—For purposes of this subtitle, the term "eligible institution", with respect to a calender year, means a qualified academic health center, or a qualified teaching hospital, that submits to the Secretary a written request in accordance with section 3102.

Page 532, line 7, strike "academic health center" and insert "qualified academic health center or qualified teaching hospital".

Page 532, line 16, strike "entity" and insert "qualified academic health center or qualified teaching hospital".

Page 532, line 20, strike "entity" and insert "center or hospital".

• Page 532, strike line 24 and all that follows through page 534, line 2, and insert the following:

(a) ANNUAL ACADEMIC HEALTH CENTER ACCOUNT.—Subject to section 3104, the amount

available for a calendar year for making payments under section 3101 (constituting an account to be known as the annual academic health center account) is the following, as applicable to the calender year:

(1) In the case of calendar year 1996, $3,100,000,000.

(2) In the case of each of the calendar years 1997 and 1998, $3,200,000,000.

(3) In the case of calendar year 1999, $3,700,000,000.

(4) In the case of calendar year 2000, $3,800,000,000.

(5) In the case of each subsequent calendar year, the amount specified in paragraph (4) increased by the product of such amount and the general health care inflation factor (as defined in subsection (d)).

Page 534, beginning on line 3, strike "CENTERS" and insert "INSTITUTIONS".

Page 534, line 11, insert "the" before "product".

Page 534, line 5, strike "center" and insert "institution".

Page 534, strike lines 7 through 9 and insert the following:

(1) the annual academic health center account available for the calendar year; and

Page 534, line 13, strike "center" and insert "institution".

Page 534, strike line 22 and all that follows through page 535 line 2, and insert the following:

and—

(I) applicable to patients discharged from the institution (or hospitals of the institution, as the case may be) in such preceding year; or

(II) in the case of patients discharged on or after January 1, 1998, applicable to patients discharged in calendar year 1997; to

Page 535, line 5, strike "centers" and insert "institutions".

• Page 535, beginning on line 10, strike "centers" and insert the following: "institutions. In making such recommendations, the Secretary shall consider the costs described in section 3101(b) that are incurred by such institutions.".

Page 535, strike lines 13 through 21 and insert the following:

(1) The term "annual academic health center account" means the account established pursuant to subsection (a).

Page 536, line 3, strike ".—The annual academic health center account under section 3103(a)" and insert "ACCOUNT.—The amount specified in section 3103(a) for the annual academic health center account".

• Page 536, amend lines 13 through 16 to read as follows:

(2) Payments made by regional alliances under section 1353 and—

(A) in the case of each of the calendar years 1996 and 1997, transferred in an amount equal to 50 percent of such payments made for the calendar year involved; and

(B) in the case of calendar year 1998 and each subsequent calendar year, transferred in an amount equal to the aggregate regional alliance portion determined under subsection (c)(2)(A).

• Page 536, line 23, and page 537, line 11, insert "(other than calendar year 1996 or 1997)" after "year".

Page 536, line 26, strike "(2)" and insert "(2)(B)".

Page 537, line 3, insert "amount specified in section 3103(a) for" after "the".

Page 538, line 2, strike "each calendar year" and insert "calendar year 1996 and each subsequent calendar year".

• Page 538, amended lines 4 through 6 to read as follows:

otherwise appropriated—

(A) in the case of each of the calendar years 1996 and 1997, an amount equal to the difference between—

(i) the amount specified in section 3103(a) for the annual academic health center account for the calendar year involved; and

(ii) the sum of the amount transferred under section 4052 for such year and the amount transferred under subsection (b)(2)(A) for such year; and

(B) in the case of calendar year 1998 and each subsequent calendar year, an amount equal to the aggregate corporate alliance portion determined under subsection (c)(2)(B) for the calendar year involved.

Page 538, line 11, strike "(1)" and insert "(1)(B)".

Page 538, line 14, strike the second period.

• Page 538, after line 14, insert the following:

(3) GRADUATE NURSE EDUCATION.—Effective January 15 of calendar year 1996 and each subsequent calendar year, there is hereby transferred to the Secretary, out of any money in the Treasury not otherwise appropriated, 50 percent of the amount specified in section 3063(b) with respect to the annual graduate nurse training account.

*[Subtitle C—Health Research Initiatives]*

Page 538, line 14, strike the second period.

Page 543, line 2, strike "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 543, beginning on line 8, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 543, beginning on line 15, strike "from Public Health Service Initiatives Fund".

*[Subtitle D—Core Functions of Public Health Programs; National Initiatives]*

Page 544, line 6, strike "AUTHORIZATIONS" and all that follows through the period on line 7 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 544, beginning on line 10, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 544, beginning on line 19, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 555, beginning on line 11, strike "After consultation with the advisory board established in section 3335, the" and insert "The".

Page 555, line 17, strike "3301" and insert "3301(b)".

Page 556, beginning on line 10, strike "Subject to paragraph (3), the" and insert "The".

Page 556, line 21, strike ", subject to paragraph (3),".

*[Subtitle E—Medically Underserved Populations]*

Page 558, line 8, strike "AUTHORIZATIONS" and all that follows through the period on line 9 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 558, beginning on line 16, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 561, line 4, strike "AUTHORIZATIONS" and all that follows through the period on line 5 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 561, beginning on line 9, "from Public Health Service Initiatives Fund (established in section 3701)".

Page 564, line 15, strike "title XXIII" and insert "title XXVI".

Page 566, line 13, strike "(g)" and insert "(f)".

Page 567, line 10, insert "of such section" after "(c)(4)".

Page 569, line 22, strike "from an award".

Page 572, line 18, strike "serves" and insert "includes".

Page 579, line 15, insert after "shall" the following: ", subject to the Federal Credit Reform Act of 1990.".

Page 579, line 17, insert after "Secretary" the following: ", in consultation with the Secretary of the Treasury,".

Page 580, line 11, insert after "determines" the following: ", in consultation with the Secretary of the Treasury, and subject to the Federal Credit Reform Act of 1990,".

Page 588, line 17, strike "AUTHORIZATIONS" and all that follows through the period on line 18 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 588, beginning on line 21, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 589, line 7, strike "AUTHORIZATIONS" and all that follows through the period on line 8 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 589, beginning on line 14, strike "from Public Health Service Initiatives Fund (established in section 3701)".

*[Subtitle F—Mental Health; Substance Abuse]*

Page 596, line 8, strike "AUTHORIZATIONS" and all that follows through the period on line 9 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 596, beginning on line 11, strike "from Public Health Service Initiatives Fund (established in section 3701)".

Page 597, line 22, strike "3501(c)(2)" and insert "3501(b)(2)".

Page 598, line 16, strike "3501(c)(2)" and insert "3501(b)(2)".

Page 603, line 8, strike "a plan to achieve" and insert the following: "a report on (including a plan for) the measures to be implemented by the State to achieve".

Page 603, line 13, after the period insert the following sentence: "The plan required in the preceding sentence shall meet the conditions described in section 3074(b).".

Strike "mental health" and insert "mental illness" in each of the following locations: Page 603, lines 9, 11, 15, and 19; page 604, lines 1, 7, and 14; page 605, lines 10, 13, 15, and 20; page 606, lines 1, 19, 20, and 24.

Page 606, line 13, strike "the a" and insert "the".

*[Subtitle G—School Health]*

Page 609, strike lines 18 through 24.

Page 610, line 22, strike "(I)" and insert "(H)".

Page 610, line 23, strike "(J)" and insert "(I)".

Page 610, line 25, strike "(K)" and insert "(J)".

Page 612, line 13, strike "AUTHORIZATIONS" and all that follows through the period on line 14 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 612, beginning on line 17, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 617, line 11, strike "STATES" and insert "STATE EDUCATION AGENCIES".

Page 617, line 12, strike "STATES" insert "STATE EDUCATION AGENCIES".

Page 618, beginning on line 2, strike "goals established under" and insert "the State's school improvement plan, if any, under title III of".

Page 620, line 21, strike "STATES" and insert "STATES" and insert "STATE EDUCATION AGENCIES".

Page 621, line 13, strike ", if any,".

Page 636, line 20, strike "AUTHORIZATIONS" and all that follows through the period on line 21 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 636, beginning on line 24, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 637, line 12, strike "are:" and insert "are the following:".

Page 638, line 19, insert a period at the end of the line.

Page 640, strike line 24 and all that follows through page 641, line 2.

Page 641, line 3, strike "(d)" and insert "(c)".

Page 642, line 4, strike "part" and insert "subpart".

Page 642, line 6, strike "(e)" and insert "(d)".

Page 643, line 1, strike "Evidence of" and insert "A description of".

Page 643, line 7, strike "(f)" and insert "(e)".

Page 643, beginning on line 7, strike "two planning grants" and insert "one planning grant".

Page 643, line 8, after the period insert the following: "A planning grant may not exceed two years in duration.".

Page 643, line 12, insert a period after "sites".

Page 643, line 20, and page 645, line 4, strike "3461(h)" and insert "3461(g)".

*[Subtitle H—Public Health Service Initiative]*

Page 648, line 13, strike "includes" and all that follows through line 14 and insert the following: "includes the programs of subtitles C through G of this title and the programs of subtitle D of title VIII.".

*[Subtitle I—COBRA Continuation]*

Page 649, line 11, strike "**Cobra**" and insert "**COBRA**"

TITLE IV CHANGES

*[Subtitle A—Medicare and Alliances]*

Page 656, strike line 10 and all that follows through page 657, line 7 and insert the following:

"(1) COVERAGE OF ALL MEDICARE-ELIGIBLE INDIVIDUALS.—The State's application shall assure that the provisions of the succeeding paragraphs of this subsection shall apply to all medicare-eligible individuals who are residents of the State.".

Page 658, line 4, strike "individual" and insert "individual".

Page 658, line 6, strike "B" and insert "C".

Page 658, line 13, strike "premium rate, coinsurance" and insert "coinsurance".

Page 658, line 15, strike "to such individuals".

Page 658, strike line 17 and all that follows through page 659, line 7, and insert the following:

"(ii) the plan's payment rates for covered items and services are accepted as payment in full for such items and services.

Page 659, line 13, insert "(including payments under section 1862(b)(4))" after "title".

Page 662, line 9, strike "subtitle A of title VI" and insert "section 6001(a)".

Page 663, line 24, strike " 'health care budget',".

Page 664, line 11, insert "(or which is eligible to enter into such a contract, as determined by the Secretary)" before "that is".

Page 664, line 16, insert "(for the same benefits as alliance-eligible individuals)" after "in such plan".

Page 664, line 18, add at the end the following: "The premium imposed with respect to such an individual by the plan shall be in an amount (determined in accordance with rules of the Secretary and notwithstanding other provisions of such Act) which reflects the difference between the premium otherwise established (adjusted by a factor to reflect the actuarial difference between medicare beneficiaries and other plan enrollees) and the amount payable under paragraph (3).".

Page 664, line 25, insert "or dependent" after "spouse".

Page 665, line 6, insert "or dependent" after "spouse".

Page 665, line 12, strike "(a)(1)(C)" and insert "(a)(1)(C) (notwithstanding the second sentence of paragraph (1))".

Page 666, line 15, strike "a health plan" and insert "an eligible organization".

Page 666, line 18, strike "individual's" and insert "individual's".

Page 667, line 1, strike "**TREATMENT OF CERTAIN MEDICARE BENEFICIARIES**" and insert "**PAYMENTS TO REGIONAL ALLIANCES ON BEHALF OF CERTAIN MEDICARE-ELIGIBLE INDIVIDUALS**".

Page 667, line 5, strike "TREATMENT" and insert "PAYMENTS TO REGIONAL ALLIANCES ON BEHALF".

Page 667, line 7, strike "(a)" and all that follows through the dash on line 16.

Page 667, line 23, insert after the first period the following: "In the case of an individual to whom such section applies, unless all the members of the family would be medicare-eligible individuals (but for section 1012(a) of such Act), the reductions in liability under section 6115 of such Act shall be based upon the alliance credit amount for an individual class of enrollment (as defined in section 1011(c)(1)(A) of such Act).".

Page 668, line 9, strike "**ACTIVE**".

Page 668, amend lines 13 through 19 to read as follows:

(A) in clause (i), by striking "large group health plans (as defined in clause (iv))" and inserting "group health plan (as defined in subparagraph (A)(v), taking into account the exceptions described in clauses (ii) and (iii) of subparagraph (A))"; and

Page 669, amend lines 7 through 9 to read as follows:

(A) in clause (i), by striking "an individual is entitled" and all that follows through "such benefits" and inserting "an individual (or a member of the indvidual's family) who is covered under the plan by v'rtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226A";

Page 669, insert after line 19 the following (and redesignate the succeeding provision accordingly):

(d) NO PRIMARY PAYMENT FOR SERVICES UNDER A HEALTH PLAN.—Section 1862(b)(2)(A) (42 U.S.C. 1395y(b)(2)(A)(i)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ", or";

(3) by inserting after clause (ii) the following new clause:

"(iii) payment has been made, or can reasonably be expected to be made, with respect to the item or service under any health plan under the Health Security Act."; and

(4) in the second sentence—

(A) by striking "and" after "applies", and

(B) by inserting before the period at the end the following: ", and a health plan under the Health Security Act to the extent that clause (iii) applies".

(e) SIMPLIFICATION OF COORDINATION OF BENEFITS.—Section 1862(b)(4) (42 U.S.C. 1395y(b)(4)) is amended by adding after and below subparagraph (B) the following:

"Notwithstanding the previous sentence, where payment is made for an item or service by a primary plan that is a health plan (within the meaning of section 1400 of the Health Security Act) and for which payment would be made under this title but for this subsection, payment may be made under this title (without regard to deductibles and coinsurance) in the amount of the cost sharing imposed under such primary plan (consistent with such Act)."

Page 670, line 22, strike "may be specified by the Secretary" and insert "shall be the period specified by the Secretary under section 1876(c)(3)(A)(i)".

Page 671, line 6, insert "designated under section 1876(c)(3)(B)" after "party".

Page 673, line 4, strike "CAPITATION" and insert "CAPITATED".

Page 673, line 20, insert "for purposes of section 1876(c)(3)(C)" after "the Secretary".

Page 675, line 7, strike the closing quotation marks and the period that follows them.

Page 675, after line 7, insert the following:

"(v) To the extent that total payments under clause (i) in a year—

"(I) exceed the payment set aside as a result of the reduction under subparagraph (C) for the year, the Secretary shall increase the percentage reduction under such subparagraph for the following year by such percentage as will result in an increase in the reduction equal to such excess in previous payments, or

"(II) are less than the payment set aside as a result of the reduction under subparagraph (C) for the year, the amount of such difference shall remain available in the succeeding years for additional payments under this subparagraph and the Secretary may take such difference into account in establishing the percentage reduction under subparagraph (C) for the following year.".

Page 675, line 9, insert "(i)" after "1876(a)(1)(C)" and after "1395mm(a)(1)(C)".

Page 675, line 10, strike "4122(a)" and insert "4132(a)".

Page 675, line 11, strike "(by a uniform percentage) determined by the Secretary" and insert "by a uniform percentage (determined by the Secretary for a year, subject to adjustment under subparagraph (G)(v))".

Page 675, line 13, strike "for a particular year".

Page 675, line 23, strike "1890" and insert "1890".

Page 675, line 26, insert after "title" the following: "(other than individuals enrolled with an eligible organization with a risk-sharing contract under section 1876(g))".

Page 676, line 1, strike "enroll in a point-of-service network" and all that follows through "and may".

Page 676, line 4, strike "the network" and insert "a point-of-service network established by the Secretary in accordance with the criteria described in subsection (b)".

Page 676, line 8, strike "appropriate geographic service areas for such networks" and insert "an appropriate geographic service area for each such network".

Page 676, line 12, strike the semicolon and insert ", except that no such service area may be served by more than one such network;".

Page 676, strike lines 13 and 14 (and redesignate the succeeding paragraphs accordingly).

Page 676, line 21, strike "incentive arrangements" and insert "incentives".

Page 676, line 23, strike the semicolon and insert ", and to encourage individuals to receive services under this title through the network;".

Page 677, strike lines 1 through 3 and insert the following:

"(6) establish procedures to be used for the provision of case management services and

criteria for determining whether (and under which circumstances) services which would otherwise not be covered under this title would be covered by the network under such case management;".

Page 677, line 4, insert "establish" after "(8)".

Page 677, line 8, strike "and" and insert after such line the following (and redesignate the succeeding paragraph accordingly):

"(8) establish standards for the selection of physicians for the network based on practice patterns and a demonstration of effective quality assurance; and

"(9) develop standards to ensure that the point-of-service option does not result in a net financial loss to the medicare program under this title after the implementation of the option in an area, taking into account administrative costs, the costs of services (which would otherwise not be covered under this title) provided to beneficiaries under case management, and the costs of incentives for physicians, other providers, and beneficiaries; and".

Page 677, line 9, insert "apply" before "such".

Page 677, line 9, strike the closing quotation mark and the period following such mark, and insert after such line the following:

"(c) BONUS PAYMENTS PERMITTED.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may increase the amount of payment otherwise provided under this title for items and services furnished by individuals who are members of a point-of-service network under this section by a bonus payment (in such amount as the Secretary may determine).

"(2) CRITERIA FOR RECEIVING PAYMENT.—The Secretary may make a bonus payment under this subsection to members of a point-of-service network if the Secretary determines that the members of the network have reduced the costs to the medicare program of the items and services furnished by the network without adversely affecting the quality of care provided to beneficiaries.".

Page 678, line 13, and page 679, line 14, strike "subsection (i)" and insert "subsection (c)".

Page 679, line 3, strike "in an arrangement for a point-of-service network" and insert "under a point-of-service network arrangement".

Page 679, strike lines 16 through 18.

Page 679, line 19, strike "(6)" and insert "(5)".

Page 679, line 21, strike "2001(c)" and insert "2003(b)"

Page 680, lines 9 and 12, strike "he" and "him" and insert "the individual" in both places.

Page 680, line 16, strike "**OF OUTPATIENT PRESCRIPTION DRUGS**" and insert "**EXPANSIONS**".

• Page 681, strike line 1 and all that follows through page 683, line 10, and insert the following:

**SEC. 4022. EXPANDED COVERAGE FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.**

(a) PHYSICIAN ASSISTANTS.—Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(b) NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS.—Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(1) by inserting "(I)" before "in a rural area", and

(2) by inserting ", (II) in any other area, in the case of services furnished by nurse practitioners other than services furnished to an inpatient of a hospital, or (III) in any other area, in the case of services furnished by clinical nurse specialists other than services furnished to an inpatient of a hospital, skilled nursing facility or nursing facility (as defined in section 1919(a)), and" after "section 1886(d)(2)(D)".

(c) CONFORMING AMENDMENTS.—(1) Section 1832(a)(2)(B)(iv) (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))" and inserting "described in section 1861(s)(K)(iii)".

(2) Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)) is amended by striking "provided in a rural area".

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended by striking "provided in a rural area".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

Page 684, line 16, strike "a bill" and insert "or other person".

Page 684, line 18, insert "or person" after "individual".

Page 691, lines 11 and 23, strike "paid" and insert "paid,".

Page 691, line 20, strike "an assessment" and insert "damages".

Page 692, strike lines 1 through 11.

Page 693, line 8, strike "employees" and insert "employee".

Page 693, line 11, insert a closing quotation mark and a period after the period.

Page 693, line 17, strike "copayment—" and all that follows through page 694, line 9 and insert the following: "copayment if the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals.".

Page 694, line 20, strike "who is obligated" and all that follows through page 695, line 2 and insert the following: "who receives assistance under a grant or cooperative agreement for the provision of health care services under title V, title XX, or the Public Health Service Act, or is obligated as a matter of law to provide services according to a schedule which provides for discounts based on the ability of the individual services to pay, if—

"(i) in the case of an individual or entity who receives assistance under a grant or cooperative agreement for the provision of health care services under title V, title XX, or the Public Health Service Act, the remuneration is directly and primarily related to the activity supported by the grant or cooperative agreement; and

"(ii) the remuneration is pursuant to a written arrangement for the use or procurement of space, equipment, goods, or services for the referral of patients that—

Page 695, move the matter from lines 3 through 18 two ems to the right.

Page 695, line 3, strike "(i) the arrangement" and insert "(I)".

Page 695, line 9, strike "(ii) the arrangement" and insert "(II)".

Page 695, line 17, strike "the Federal grant or cooperative agreement" and insert "a grant or cooperative agreement described in clause (i)".

Page 696, line 25, strike "a" and insert "each".

Page 697, line 17, strike the dash and insert a colon.

Page 698, line 9, strike "and".

Page 698, line 13, strike the period and insert "; and".

Page 698, insert after line 13 the following:

(5) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.".

Page 699, line 19, strike "paragraphs" the second place it appears.

Page 700, line 20, insert "designated health" after "the case of"

Page 701, line 15, strike "CAPITATED" and insert "OTHER CAPITATED PAYMENTS".

Page 702, line 23, through page 703, line 2, move the indentation 2 ems to the left.

Page 703, line 20, strike "that serves a significant number" and all that follows through "Act)," and insert the following: "for which 85 percent of the patients are members of a medically underserved population designated under section 330 of the Public Health Service Act (as determined in accordance with regulations of the Secretary),".

Page 706, line 21, strike "a laboratory in exchange for the provision of clinical laboratory services" and insert "an individual or entity as compensation for items or services if the items or services are".

Page 709, strike lines 4 through 16 (and redesignate the succeeding provisions accordingly).

Page 709, line 19, strike "2006(c)(3)" and insert "2005(c)(3)".

Page 711, lines 5 through 13, indent 2 additional ems.

Page 715, line 15, insert "under the Health Security Act" after "a health plan".

Page 716, line 7, strike "federal" and insert "Federal".

Page 716, lines 8 and 9, strike "state" and insert "State".

Page 716, line 8, insert "(under subtitle D of title I of such Act)" after "health alliance".

Page 716, line 10, strike "the plan" and insert "a health plan under such Act or a public program".

Page 716, line 16, strike "(6)" and insert "(12)".

Page 716, line 22, strike "or" and insert ", payment, or".

Page 717, line 8, strike "(as defined in subsection (g))".

Page 718, line 12, strike "TRUST FUND" and insert "ACCOUNT".

Page 718, line 16, strike "Trust Fund" and insert "Account".

Page 718, line 22, strike "was".

Page 720, line 25, strike the comma.

Page 721, line 19, strike "1128(b) (42 U.S.C. 1320a–7(b))" and insert "1128 (42 U.S.C. 1320a–7)".

Page 721, line 21, strike "paragraph (1)" and insert "subsection (a)(1)(A)".

Page 721, insert after line 25 the following (and redesignate the succeeding provisions accordingly):

(2) in subsection (b)(5)—

(A) by striking "or" at the end of subparagraph (A),

(B) by adding "or" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) an applicable health plan (as defined in section 1902(6) of the Health Security Act) under section 5411 or 5412(b)(3) of such Act,";

(3) in subsection (b)(6)(B), by striking "XVIII or under a State health care program" and inserting "XVIII, a State health care program, or an applicable health plan (as defined in section 1902(6) of the Health Security Act)";

Page 722, line 2, strike "paragraph (7)" and insert "subsection (b)(7)".

Page 722, line 4, strike "paragraph (8)(B)" and insert "subsection (b)(8)(B)".

Page 722, line 13, strike "paragraph (9)" and insert "subsection (b)(9)".

Page 722, line 14, insert "provide" after "or".

Page 722, line 20, strike "paragraph (11)" and insert "subsection (b)(11)".

Page 723, line 8, strike "paragraph (12)" and insert "subsection (b)(12)".

Page 723, line 13, strike "any actions" and all that follows through "any sanctions" and insert "any violations of law have occurred, including violations".

Page 723, line 17, strike "and".

Page 723, insert after line 17 the following (and redesignate the succeeding provision accordingly):

(9) in subsection (b)(14), by striking "XVIII or XIX" and inserting "XVIII, a State health care program, or an applicable health plan (as defined in section 1902(6) of the Health Security Act)"; and

Page 723, line 18, strike "paragraph (15)" and insert "subsection (b)(15)".

Page 723, line 20, strike "54.." and insert "5412".

Page 726, strike "calendar" each place it appears on lines 5 and 20 and insert "fiscal".

• Page 726, strike lines 7 through 19 and insert the following:

(1) In the case of fiscal year 1996, $1,500,000,000.

(2) In the case of each of the fiscal years 1997 and 1998, $1,600,000,000.

Page 726, line 22, strike "the product of such amount" and all that follows through page 727, line 2 and insert the following: "the Secretary's estimate of the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with the midpoint of the previous fiscal year.".

Page 727, line 5, strike "an academic year" and insert "a year".

• Page 727, line 22, and page 728, line 10, strike "January 1, 1998" and all that follows through "participating State)" and insert "October 1, 1995".

Page 729, strike "calendar" each place it appears on lines 2 and 16 and insert "fiscal".

• Page 729, strike lines 3 through 15 and insert the following:

(1) In the case of fiscal year 1996, $2,100,000,000.

(2) In the case of each of the fiscal years 1997 and 1998, $2,000,000,000.

Page 729, line 18, strike "the product of such amount" and all that follows through line 23 and insert the following: "the Secretary's estimate of the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with the midpoint of the previous fiscal year.".

• Page 730, lines 4 and 14, strike "January 1, 1998" and all that follows through "participating State)" and insert "October 1, 1995".

Page 731, line 18, strike "in such amounts" and all that follows through the first period on line 21 and insert "in the same amounts and under the same terms and conditions under which the Secretary makes payments to eligible organizations with risk-sharing contracts under section 1876.".

Page 731, line 25, strike "January 1, 1998" and insert "October 1, 1995".

Page 732, line 22, strike "any individuals entitled to benefits under this title who are enrolled with such a plan" and insert "any veteran, other than a veteran described in section 1831(b)".

Page 732, line 24, insert "(other than any individuals described in section 1831(b) of title 38, United States Code)" after "year".

*[Subtitle B—Medicare Savings]*

• Page 734, line 16, strike "2001" and insert "2003".

Page 734, line 19, strike "Section" and insert "(a) IN GENERAL.—Section".

Page 735, line 4, strike "1994" and insert "1995".

Page 735, line 4, insert "and" after "1.89,".

Page 735, strike lines 5 and 6 (and redesignate the succeeding provision accordingly).

Page 735, insert after line 8 the following:

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 4102(a) of the Health Security Act".

Page 735, line 19, insert "for discharges occurring after September 30, 1995," before "the Secretary".

• Page 737, line 2, strike "2000" and insert "2003".

• Page 738, line 11, strike "2000" and insert "2003".

Page 738, line 25, and page 742, line 5, strike "subtitle C of title I of".

Page 739, line 21, strike "5 percent" and insert "5.5 percent".

Page 740, line 14, strike "e to the nth power" and insert "e to the nth power—1".

Page 740, line 17, strike "—1".

Page 743, line 21, strike "1991 THROUGH 1993" and insert 1991 THROUGH 1994".

Page 744, line 2, strike "and 1993" and insert "1993, and 1994".

Page 744, line 14, strike "1994" and insert "1995".

Page 744, line 17, strike "physicians's" and insert "physicians'".

Page 744, line 18, strike "1994" and insert "1995".

Page 746, line 15, strike "1992 THROUGH 1995" and insert "1992 THROUGH 1996".

Page 746, line 18, strike "and 1995" and insert "1995, and 1996".

Page 746, line 23, strike "1996" and insert "1997".

Page 747, line 1, strike "1996" and insert "1997".

Page 747, line 19, strike "1994" and insert "1995".

Page 749, insert after line 7 the following new subsection:

(c) REPEAL OF PERFORMANCE STANDARD FACTOR.—

(1) IN GENERAL.—Section 1842(f)(2), as amended by section 4111(a)(3), is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 1842(f)(2)(B), as added by section 4111(a), is amended in the matter following clause (iv) by striking "1, multiplied by 100" and all that follows through "subparagraph (C))" and inserting "1 and multiplied by 100".

Page 749, line 19, strike "1995" and insert "1995".

Page 750, line 8, strike "3 percentage points" and insert "3 percent and adjusted by the update established under paragraph (3) for 1995".

Page 751, line 4, strike "(i)".

Page 751, line 8, strike ", and, if so" and all that follows through "subsection (b)(3)".

Page 751, line 21, strike "physicians" and insert "physician's".

Page 752, line 17, strike "this subsection—" and all that follows through page 753, line 2, and insert the following: "this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.".

Page 753, line 14, insert "projected" and "relative value".

Page 753, line 15, insert "for a calendar year" after "hospital)".

Page 753, line 17, strike "each physician's service" and insert "for physicians' services".

Page 753, line 20, strike "during 1996" and insert "during the second year preceding such calendar year".

Page 754, line 2, insert "projected" after relative value".

Page 754, line 3, insert "in a calendar year" after "hospital".

Page 754, line 7, strike "each physician's service" and insert "for physicians' services".

Page 754, line 10, strike "during 1996" and insert "during the second year preceding such calendar year".

Page 754, line 10, strike ", adjusted" and all that follows through "subparagraph (C))" on line 14.

Page 754, line 17, strike "each physician's service" and insert "physicians' services".

Page 754, line 19, strike "during 1996" and insert "during the second year preceding such calendar year".

Page 755, strike lines 15 through 24.

Page 756, line 6, strike "a" and insert "the".

Page 757, line 3, add at the end the following: "Notwithstanding any other provision of this title, no payment may be made under this part for any physician's service furnished by a member of a hospital's medical staff to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for payment for such service not later than 90 days after the last day of the year.".

Page 757, line 20, strike the semicolon and insert the following: ", including interest at an appropriate rate determined by the Secretary;".

Page 757, line 23, and page 758, lines 6 and 13, strike "10" and insert "15".

Page 758, line 8, strike "limit;" and insert "allowable average per admission relative value; and".

Page 758, line 8, strike the semicolon and insert the following: ", including interest at an appropriate rate determined by the Secretary;".

Page 759, line 8, strike the period and insert the following: ", on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.".

Page 760, line 6, strike "Medicare" and insert "medicare".

Page 763, line 11, insert ", as amended by subsection (a)(1)," before "is amended".

Page 763, line 19, insert "(42 U.S.C. 1395u(c)(2)(F)(iii)), as added by subsection (a)(2)," before "is amended".

Page 763, line 20, strike "4115(a)" and insert "4115(a)(1)".

Page 763, line 23, insert ", as amended by subsections (a)(1) and (b)(1)," before "is amended".

Page 764, line 1, strike "(1)" and insert "(I)".

Page 764, lines 1 through 14, indent 2 additional ems.

Page 764, line 19, insert ", as amended by subsections (a)(1), (b)(1), and (c)," before "is amended".

Page 765, line 15, insert "IN GENERAL.—" after "(1)".

Page 765, line 16, strike "by".

Page 765, lines 17, 19, and 21, insert "by" after "(A)", "(B)", and "(C)".

Page 765, line 19, strike "time" and insert "place".

Page 766, line 3, strike "1886(d)" and insert "1886(d)(2)(D)".

Page 766, line 4, strike "subparagraph (A)" and insert "paragraph (1)".

Page 767, line 17, strike "**BIDDING**" and insert "**ACQUISITION**".

Page 770, strike lines 4 and 5 (and redesignate the succeeding provision accordingly).

Page 771, line 14, strike "the payment amount" and all that follows through "previous year" and insert the following: "the projected payment amount that would have applied to the item or service under part B if the item or service had not been furnished through competitive acquisition under such section".

Page 772, line 4, strike "4117(a)" and insert "4118".

Page 772, line 19, strike "the fee schedules" and all that follows through "previous year" and insert the following: "the projected payment amount that would have applied to such tests under this section if the tests had not been furnished through competitive acquisition under section 1847".

Page 773, line 12, strike "20" and insert "100".

Page 773, line 18, insert "before" after "and".

Page 778, line 12, strike "The portion" and insert "For 1995 and succeeding years, the portion".

Page 779, line 3, strike "The portion" and insert "For 1995 and succeeding years, the portion".

Page 780, line 2, strike the closing quotation mark and the period following such mark and insert after such line the following:

"(vii) For purposes of clauses (ii) through (v), in determining the weighed average of all adjusted average per capita costs determined under paragraph (4) for a class, the Secretary shall not take into account any costs associated with individuals entitled to benefits under this title under section 226A.".

Page 784, line 15, strike "surgery" and insert "surgery, coronary artery by-pass surgery,".

• Page 786, after line 14, insert the following:

**PART 5—REPORT ON MEDICARE SAVINGS FOR FISCAL YEARS 2000 THROUGH 2003**

**SEC. 4151. REPORT ON SAVINGS.**

(a) IN GENERAL.—The Secretary shall submit to Congress, by January 30, 1999, a report that contains—

(1) a determination of whether the average, annual rate of growth in spending under the medicare program (taking into account savings under this subtitle) in the 4-fiscal-year period beginning with fiscal year 2000 will exceed the rate of growth described in subsection (b); and

(2) if so, recommendations as to how to achieve the rate of growth specified in subsection (b).

(b) RATE OF GROWTH DESCRIBED.—The rate of growth described in this subsection is the sum of the following:

(1) CPI.—The average annual percentage change in the CPI.

(2) MEDICARE POPULATION.—The average, annual percentage change in the number of medicare-eligible individuals.

(3) REAL GDP PER CAPITA.—The average, annual percentage change in the real, per capita gross domestic product of the United States, and

(4) 1 PERCENT.—1 percentage point.

*[Subtitle C—Medicaid]*

Page 787, line 24, insert ", as amended by section 13631(a)(3) of OBRA-1993," before "is".

Page 788, lines 1 through 5, indent 2 additional ems.

Page 788, line 10, insert ", as amended by section 13631(h)(1)(C) of OBRA-1993," before "is".

Page 788, line 7, strike "part 1 of subtitle C of title VI of such Act" and insert "subtitle A of title IX of the Health Security Act".

Page 789, line 24, strike "1902(a)(10(A)" and insert "1902(a)(10)".

Page 790, line 11, strike "option" and insert "election".

Page 789, line 25, strike "1396a(a)(10)(A)" and insert "1396a(a)(10)".

Page 790, line 11, strike "option" and insert "election".

Page 790, line 12, strike "exercising such option" and insert "making such election".

• Page 791, line 5, strike "$70" and insert "$50".

• Page 792, line 5, strike "if the amendment made by subsection (a) had not taken effect (as estimated by the Secretary)" and insert "based on the personal needs allowance in effect in the State as of September 30, 1993".

• Page 792, strike line 11 and all that follows through page 799, line 23 (and redesignate the succeeding section accordingly).

Page 800, line 5, insert ", as amended by section 4201(b)," before "is".

Page 800, lines 7, 9, 10, and 12, strike "(61)", "(62)", "(62)", and "(63)" and insert "(62)", "(63)", "(63)", and "(64)".

Page 801, line 21, strike "4201" and insert "4201(a)".

Page 802, lines 16 and 19, strike "18 years of age or older".

Page 802, after line 22, insert the following:

"(4) Children under 18 years of age (or, at the option of the State, under age 19, 20, or 21).

Page 803, line 23, after the period insert closing quotation marks and a period.

Page 803, strike line 24.

Page 805, line 7, strike "and 4213 and by subsection (b)" and insert "4213, and 4221(b)".

Page 805, line 15, strike "make payment" and insert "provide for payment".

Page 805, line 17, insert "or appropriate' after "necessary".

Page 805, line 26, insert "of the Health Security Act" after "1001(c)".

Page 806, line 4, strike "18" and insert "19".

Page 806, line 6, strike "for" and all that follows through the end of line 9.

Page 806, line 23, strike "applicable poverty level (as defined in section 1902(a)(25)(A) of the Health Security Act)" and insert "income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to a family of the size involved)".

Page 807, lines 9 and 15, strike "the applicable" and all that follows through "Act)" on line 11 and insert "such income official poverty line" both places.

Page 808, line 10, strike "an alliance" and insert "a".

Page 808, line 11, strike "1300" and insert "1400(a)".

Page 810, line 5, strike "the percentage of".

Page 810, line 9, strike "is" and insert "are".

Page 810, line 23, strike "and".

Page 810, line 21, insert ", non-DSH" after "non-cash".

Page 811, line 13, insert ", non-DSH" after "non-cash".

Page 813, lines 6 and 15, and page 814, line 7, strike "within the meaning of section 1200 of" and insert "under".

Page 813, lines 10 and 17, strike "1997" and "1996" and insert "1998" and "1997".

Page 813, line 14, strike "a quarters" and insert "any quarters".

Page 814, line 12, strike "1997" and insert "1998".

Page 815, line 10, strike "section 4213" and insert "sections 4201(b) and 4214(a)".

Page 815, lines 13, 15, 16, and 18, strike "(62)", "(63)", "(63)", and insert "(63)", "(64)", "(64)", and "(65)".

Page 817, line 11, strike "of the Health Security Act"

• Page 819, lines 21 and 23, strike "$840" and "$1,680" and insert "$600" and "$1,200".

TITLE V CHANGES

*[Subtitle A—Quality Management and Improvement]*

Page 826, line 4, strike "discrete".

Page 829, beginning on line 1, strike "by the individuals" and all that follows through line 2 and insert a period.

Page 829, beginning on line 10, strike "measures" and all that follows through line 13 and insert "a measure shall be expected to vary widely among the individuals and entities whose performance is assessed using the measure.".

Page 830, line 8, strike "Board" and insert "Council".

Page 831, line 17, strike "will" and insert "shall".

Page 831, line 17, strike "it" and insert "the Board".

Page 832, line 14, after "alliance" insert "area".

Page 833, insert after line 4 the following:

(d) PUBLIC AVAILABILITY OF INFORMATION IN NATIONAL PRACTITIONER DATA BANK ON DEFENDANTS, AWARDS, AND SETTLEMENTS.—

(1) IN GENERAL.—Section 427(a) of the Health Care Quality Improvement Act (42 U.S.C. 11137(a)) is amended by adding at the end the following new sentence:

"Not later than January 1, 1996, the Secretary shall promulgate regulations under which individuals seeking to enroll in health plans under the Health Security Act may obtain information reported under this part with respect to physicians and other licensed health practitioners participating in such plans for whom information has been reported under this part on repeated occasions.".

(2) ACCESS TO DATA BANK FOR POINT-OF-SERVICE CONTRACTORS UNDER MEDICARE.—Section 427(a) of such Act (42 U.S.C. 11137(a)) is amended—

(A) by inserting "to sponsors of point-of-service networks under section 1890 of the Social Security Act," after "State licensing boards,", and

(B) in the heading, by inserting "RELATED" after "CARE".

Page 836, line 17, insert "collect and" after "shall".

Page 842, line 24, strike "and".

Page 842, line 25, strike the period and insert "; and".

Page 842, insert after line 25 the following:

(4) in subsection (m)(1), by striking ", except that the Secretary" and all that follows and inserting a period.

• Page 843, after line 4, insert the following:

**SEC. 5011. UNIFORM STANDARDS FOR HEALTH CARE INSTITUTIONS.**

(a) DEVELOPMENT OF STANDARDS.—Not later than 3 years after the date of the enactment of this Act, the National Health Board shall develop demonstration standards for the licensing of health care institutions that address essential performance requirements related to patient care. The standards shall

be developed in a manner that permits them to be applied uniformly to all such institutions, except in the areas of fire safety, sanitation, and patient rights, and so as not to undermine ongoing nursing home reforms.

(b) DEMONSTRATION PROJECTS.—By January 1, 1996, the National Quality Management Council shall complete demonstration projects for the standards developed under subsection (a) and shall revise the standards according to the findings of such projects. The demonstration projects shall evaluate the impact of these standards in ensuring quality of care, reducing cost, and reducing burdens on health care providers.

(c) PREEMPTIVE EFFECT OF FULLY IMPLEMENTED STANDARD.—After a standard developed under this section is tested, evaluated, revised, and fully implemented, it shall replace existing standards, except in cases in which statutory changes are necessary to implement such standards. In such cases, the National Quality Management Council shall recommend to the President and the Congress revisions in Federal statutes to conform the statutes to the standards.

(d) CONSOLIDATED AUDIT AND INSPECTION.—The National Quality Management Council shall undertake research efforts designed to develop a system for carrying out through grant or contract a single, consolidated annual audit and inspection of each health care institution and health care provider for the combined purposes of Federal, State, local, and private licensure, accreditation, and certification.

Page 843, line 14, strike "5005(d)" and insert "5005(c)(2)".

Page 843, line 19, strike "quality" and insert "professional".

*[Subtitle B—Information Systems, Privacy, and Administrative Simplification]*

Page 846, line 2, strike "States and the Federal Government" and insert "States, the Federal Government, health alliances, and health plans".

Page 852, strike lines 2 and 3 and insert the following:

(5) health plans;

(6) representatives of health care providers;

(7) representatives of employers;

(8) representatives of consumers of health care;

(9) experts in public health and health care information and technology; and

(10) representatives of organizations furnishing health care supplies, services, and equipment.

Page 865, line 9, strike "manner" and insert "medium".

Page 869, line 22, strike "discrete".

*[Subtitle C—Remedies and Enforcement]*

Page 875, line 13, insert "(other than emergency services which under section 1406(b) may not be subject to preauthorization)" after "services".

Page 880, beginning on line 4, strike "corporate alliance health plans" and insert "plans described in subsection (b)".

Page 880, line 25, insert "a supplemental benefit policy described in section 1421(b)(1) or" after "under".

Page 881, line 15, strike "Proceedings" and insert 'Notwithstanding part 2, proceedings".

Page 881, line 22, insert "a supplemental benefit policy described in section 1421(b)(1) or" after "under".

Page 883, line 1, strike "except".

Page 883, line 24, strike "this section" and insert "section 5204".

Page 884, line 12, insert "a supplemental benefit policy described in section 1421(b)(1) or" after "under".

Page 886, line 21, insert "of the United States" after "district court".

Page 887, strike line 23 and all that follows through line 1 on page 888 and insert the following:

(2) DECISIONS FINDING IN FAVOR OF COMPLAINANT.—If the hearing officer's Page 888, line 8, strike "(i)" and insert "(A)".

Page 888, line 10, strike "(ii)" and insert "(B)".

Page 888, line 14, strike "(iii)" and insert "(C)".

Page 888, line 18, strike "(iv)" and insert "(D)".

Page 892, line 19, strike "the date of the proceeding" and insert "the date of the decision".

Page 893, strikes lines 17 through 22.

Page 893, line 22, strike "published".

Page 893, line 23, strike "(g)" and insert "(f)".

Page 894, insert after line 5 the following:

**SEC. 5206. RULES GOVERNING BENEFIT CLAIMS DETERMINATIONS.**

(A) IN GENERAL.—Determinations made under this part or by any State court in connection with a complaint based on an act or practice described in section 5202(b) shall be in accordance with the provisions of this Act, the comprehensive benefit package as provided by this Act, the rules and regulations of the National Health Board prescribed under this Act, and decisions of the National Health Board under this Act.

(b) RIGHTS AND REMEDIES UNDER STATE LAW.—Subject to subsection (a), the rights and remedies available in State court against a health plan providing services through a regional alliance in connection with a complaint based on an act or practice described in section 5202(b) shall be governed by State law.

Page 894, line 6, strike "**5206**" and insert "**5207**".

Page 895, align lines 1 through 3 with lines 4 through 7.

Page 895, line 7, strike "subsection (a)" and insert "paragraph (1)".

Page 898, line 3, insert "a supplemental benefit policy described in section 1421(b)(1) or" after "under".

Page 898, line 23, strike "subpart A" and insert "section 5202(b)".

Page 899, line 3, insert "participation" before "agreement".

Page 900, line 2, strike "health".

Page 902, line 14, strike "subsection (a)" and insert "paragraph (1)".

Page 904, line 5, strike "(d)" and insert "(c)".

Page 904, line 16, strike "an".

Page 911, line 10, insert "on the basis of age or disability" after "discrimination".

Page 911, line 12, strike "1973" and insert "1975".

Page 911, line 12, strike "6102" and insert "6101".

Page 911, line 17, strike "aggreived" and insert "aggrieved".

Page 912, line 1, strike "(c)" and insert "(b)".

Page 912, line 2, strike "the" and insert "a".

Page 912, lines 15 and 17, strike "(d)" and "(c)(1)" and insert "(c)" and "(b)(1)".

Page 916, line 25, strike "subsection (b)" and insert "subsection (a)".

*[Subtitle D—Medical Malpractice]*

Page 918, line 10, strike "paragraph (2)" and insert "this part".

Page 920, line 23, strike "in a civil action".

Page 921, lines 16 and 23, strike "plan" each place it appears and insert "health plan".

Page 922, line 1, insert "(or failure to provide)" after "provision of".

Page 922, line 11, strike "National Health".

Page 922, line 14, strike "plans" and insert "health plans".

Page 923, line 1, strike "National Health".

Page 924, lines 3, 6, 7, and 12, and page 925, lines 10 and 24, strike "medical".

Page 925, line 19, strike "MEDICAL".

Page 923, line 24, strike "(b)(2)" and insert "(b)(1)".

Page 925, line 21, strike "a defendant to".

Page 926, line 11, insert "matter" after "subject".

Page 927, line 3, insert "system" after "resolution".

Page 927, line 4, insert "percent" after "33⅓".

Page 927, line 25, strike "claimant" each place it appears and insert "plaintiff".

Page 928, line 10, strike "claimant" and insert "plaintiff".

Page 928, line 25, strike "of Health and Human Services".

Page 930, line 17, strike "of Health and Human Services".

Page 931, line 18, strike "after" and insert "after the last day of".

*[Subtitle E—Fraud and Abuse]*

Page 932, line 8, strike "of Health and Human Services".

Page 932, line 9, strike "Office of the".

Page 933, line 10, strike ", SECRETARY,".

Page 933, line 12, strike "established".

Page 933, line 13, strike ", the Secretary,".

Page 933, line 21, strike "that relate" and all that follows through "such program" and insert "relating to the activities described in paragraph (1)".

Page 933, line 24, insert "part 2 of" after "under".

Page 935, lines 3 through 8 and insert the following:

(h) DEFINITION.—In this part and part 2, the term "Inspector General" means the Inspector General of the Department of Health and Human Services.

Page 935, line 16, strike "Account ')." and insert "Account')".

Page 935, line 20, strike "subsection (b)(4)" and insert "section 5412(d)(2)".

Page 935, line 25, strike "(e)" and insert "(d)".

Page 936, line 7, strike "XVIII" and insert "XVIII,".

Page 936, line 20, strike "Account," and insert "Account".

Page 936, line 25, strike "to assist" and insert "as determined jointly by".

Page 937, line 11, strike "travel" and insert "travel,".

Page 937, line 14, strike "operations;" and insert "operations; and".

Page 938, line 13, insert "or" after the semicolon.

Page 938, line 24, strike "such Office" and insert "the Inspector General".

Page 939, line 1, strike "such Office" and insert "the".

Page 939, line 5, strike "365 days" and insert "1 year".

Page 939, lines 9, 18, and 20, strike "such Office" and insert "the Inspector General".

Page 939, line 9, strike "Health Care" and insert "Department of Justice".

Page 939, line 23, strike "Office of".

Page 940, line 1, strike "524(d)(1)" and insert "524".

Page 940, lines 9 and 15, strike "is described in" and insert "is excluded from participation in a public program under, or is otherwise described in,".

Page 941, line 5, strike "written".

Page 941, lines 6, strike "5412 of this Act" and insert "5412(e)".

Page 941, lines 7, 13, and 20, page 942, lines 4 and 8, and page 944, line 21, strike "described in" and insert "excluded from participation in a public program under, or is otherwise described in,".

Page 941, line 20, strike "(4) or (5) of sections" and insert "(4), (5)(A), or (5)(B) of section".

Page 943, line 2, insert "(together with the period thereof)" after "exclusion".

Page 943, line 3, strike "5412" and insert "5412(b)(3)".

Page 944, line 2, strike "(3), (4), (5), (6), (7), (8), (9), or (14)" and insert "(6)(B), (7), (8), (9), (11), (12), (14), or (15)".

Page 944, line 12, insert "or section 5412(b)(3)" after "section".

Page 944, line 18, strike "the" and insert "a".

Page 944, line 22, strike "1128(b)(8)" and insert "1128(b)(12)".

Page 944, line 23, strike "and a such" and insert "or section 5412(b)(3) and at such".

Page 945, line 13, insert "and each" after "plan".

Page 946, insert after line 2 the following:

(j) EFFECT OF EXCLUSION.—Notwithstanding any other provision of this Act, no payment may be made under a health plan for the delivery of or payment for any item or service (other than an emergency item or service, not including items or services furnished in an emergency room of a hospital) furnished—

(1) by an individual or entity during the period when such individual or entity is excluded pursuant to this section or section 5412(b)(3) from participation in a health plan; or

(2) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to this section or section 5412(b)(3) from participation in a health plan and the person furnishing the item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

(k) DELEGATION.—The Secretary may delegate authority granted under this section to the Inspector General.

Page 946, line 13, strike "1128A" and insert "1128A(a)".

Page 946, line 15, strike "XIX" and insert "XIX,".

Page 947, line 10, strike "eligible to enroll in an applicable health plan".

Page 947, line 12, strike the period and insert the following: ", or to cause such individual to induce others to enroll in a particular plan".

Page 947, line 16, strike "(6)" and insert "(5)".

Page 948, line 3, strike "XIX" and insert "XIX,".

Page 948, line 5, insert "or assessment" after "penalty".

Page 948, strike line 13 and all that follows through page 949, line 14 and insert the following:

(1) APPLICABILITY OF PROCEDURES UNDER SOCIAL SECURITY ACT.—Except as otherwise provided in paragraph (2), the provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil monetary penalty, assessment, or exclusion under this section in the same manner as such provisions apply with respect to the imposition of a penalty, assessment, or exclusion under section 1128A of such Act.

(2) AUTHORITY OF SECRETARY OF LABOR AND STATES TO IMPOSE PENALTIES, ASSESSMENTS, AND EXCLUSIONS.—

(A) IN GENERAL.—The Secretary of Labor or a State may initiate an action to impose a civil monetary penalty, assessment, or exclusion under this section with respect to actions relating to a corporate alliance health plan or a regional alliance health plan, respectively, if authorized by the Attorney General and the Secretary pursuant to regulations promulgated by the Secretary in consultation with the Attorney General.

(B) REQUIREMENTS DESCRIBED.—Under the regulations promulgated under subparagraph (A), the Attorney General and the Secretary shall review an action proposed by the Secretary of Labor or a State, and not later than 120 days after receiving notice of the proposed action from the Secretary of Labor or the State, shall—

(i) approve the proposed action to be taken by the Secretary of Labor or the State;

(ii) disapprove the proposed action; or

(iii) assume responsibility for initiating a criminal, civil, or administrative action based on the information provided in the notice.

(C) ACTION DEEMED APPROVED IF DEADLINE MISSED.—If the Attorney General and the Secretary fail to respond to a proposed action by the Secretary of Labor or a State within the period described in subparagraph (B), the Attorney General and the Secretary shall be deemed to have approved the proposed action to be taken by the Secretary of Labor or the State.

Page 950, line 24, strike "a an" and insert "a".

Page 953, line 120, strike "5402(e)" and insert "5402(d)".

Page 954, line 1, strike "5402(e)" and insert "5402(d)".

Page 955, line 13, strike ", or for or because of,".

Page 955, line 21, strike ", or for or because of any such conduct on the part of such an official".

Page 955, line 25, strike ", or for or before of such conduct".

Page 956, line 5, strike the period and insert a semicolon.

Page 956, after line 5, insert the following; shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Whoever, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a health care alliance or health plan, shall be fined under this title or imprisoned not more than two years, or both.

Page 956, line 6, strike "(b)" and insert "(c)".

Page 958, line 10, strike ", or for use in connection with civil forfeiture under section 981(a)(1)(C) of this title".

Page 957, line 16, strike "5402(e)" and insert "5402(d)".

Page 958, line 9, strike "5402(e)" and insert "5402(d)".

Page 959, line 11, strike "new section".

Page 959, line 17, strike "American".

Page 960, strike line 3 and all that follows through line 12 and insert the following:

**"CHAPTER 33—EMBLEMS, INSIGNIA, IDENTIFIERS, AND NAMES".**

(c) CLERICAL AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 33, United States Code, is amended by adding at the end the following new item:

Page 960, line 13, strike "(c)" and insert "(d)".

Page 960, line 23, strike "plan," and insert "plan".

Page 960, line 23, strike "Government," and insert "Government".

TITLE VI CHANGES

*[Subtitle A—Premium Caps]*

Page 964, line 7, insert "subpart A of" after "under".

Page 966, line 19, strike "a".

Page 967, line 5, strike "(2)" and insert "(3)".

• Page 967, after line 22, insert the following:

For purposes of subparagraph (D)(i), the actuarial value of the increase with respect to mental illness and substance abuse derives (included within the comprehensive benefit package) shall not exceed an actuarial value based on the amount of the total expenditures that would have been made in 2001 by States and subdivisions of States for mental illness and substance abuse services (included in such package as of 2001) if this Act has not been enacted.

Page 968, line 1, strike "1999his" and insert "2000.—In this".

Page 968, line 9, insert "and for 2000" after "1999".

Page 968, line 10, strike "1999" and insert "2000".

Page 968, line 12, strike "1998" and insert "1999".

Page 968, line 15, strike "2000" and insert "2001".

Page 968, line 19, strike "1999" and insert "2000".

Page 968, line 24, insert ", minus 1" after "fiscal year"

Page 969, line 1, strike "FACTOR.—The factor" and insert "FACTORS.—The factors".

Page 969, line 2, strike "is 1 plus" and insert "are".

Page 969, lines 3 and 16, strike "The" and insert "1 plus the".

Page 969, strike lines 10 through 15.

Page 969, line 16, strike "(iii)" and insert "(ii)".

Page 970, line 13, strike "inflator" and insert "inflation".

Page 971, line 25, strike "method" and insert "methods".

Page 972, move line 1 and all that follows through page 974, line 3, to page 983, after line 10, after making the following modifications:

On page 972, line 1, strike "(d)" and insert "(e)".

On page 972, line 3, insert "the" after "If".

On page 972, line 8, and page 974, line 2, strike "section 6003(a)" and insert "this section".

On page 972, line 9, strike "inflation factor" and all that follows through page 973, line 17, and insert the following: "per capita premium target shall be reduced, by ½ of the excess percentage (described in paragraph (2)) for the year, for each of the 2 succeeding years.".

On page 973, line 18 strike '(3)" and insert "(2)".

On page 973, line 21, insert "the" after "(A)".

Page 974, line 4, strike "(e)" and insert "(d)".

Page 975, line 3, strike "the" after "of".

Page 975, line 4, strike "subsection (c)(3);; and insert "paragraph (4)".

Page 977, line 3, insert "and will not include adjustments to offset payments below costs by public programs" after "removed".

Page 977, line 6, strike "(i) IN GENERAL.—" and run the succeeding sentence directly after the dash on line 5 (with the same indentation as the following subparagraph).

Page 978, line 2, strike "high" and insert "higher".

Page 978, line 16, strike "(C)" and insert "(4)".

Page 978, line 24, strike ", '995, and 1996" and insert "and 1995".

Page 979, line 6, strike "Administrator of the Health Care Financing Administration" and insert "Secretary".

Page 980, line 9, strike "paragraph (3)" and insert "subsection (e)".

Page 980, line 12, insert "(without regard to subsection (e))" after "under this section".

Page 980, line 13, strike "and".

Page 980, after line 16, insert the following:

(3) ADJUSTMENT FOR PREVIOUS EXCESS RATE OF INCREASE IN EXPENDITURES.—Such target for a year is subject to a decrease under section 6001(d).

Page 981, line 10, strike "TYPES" and insert "TYPE".

Page 981, line 17, strike "Health Care Financing Administration" and insert "Secretary".

Page 984, line 5, strike "premium".

Page 984, line 20, insert "final" after "the".

Page 986, line 17, strike "6002" and insert "6003".

Page 986, line 18, insert "of" after "(B)".

Page 987, line 7, strike "preliminary".

Page 987, at the end of line 21, insert the following: "A participating State may regulate the rates charged by providers furnishing health care items and services to all private payers. Such regulation of rates may not cause a corporate alliance health plan to be charged, directly or indirectly, rates different from those charged other health plans for the same items and services or otherwise discriminate against corporate alliance health plans."

Page 987, line 23, insert "the" after "if".

Page 988, line 10, strike "target exceeds the amount of such premium" and insert "statewide average target exceeds the amount of such statewide average accepted bid".

• Page 989, strike line 7 and all that follows through page 995, line 3, and insert the following:

(c) ELIMINATION OF REGIONAL VARIATION IN PREMIUMS DUE TO PRACTICE PATTERN.—

(1) COMMISSION STUDY.—The advisory commission shall examine methods of eliminating variation in regional alliance per capita premium targets due to variation in practice patterns, not due to other factors (such as health care input prices and demographic factors), by 2002.

(2) COMMISSION REPORT.—The advisory commission shall submit to the Board a report that specifies one or more methods for eliminating the variation described in paragraph (1).

(3) BOARD RECOMMENDATIONS.—The Board shall submit to Congress, by not later than July 1, 1995, detailed recommendations respecting the specific method to be used to eliminate the variation described in paragraph (1) by 2002. Such recommendations may take into account regional variations in demographic or health status and in health care input prices, based on the availability of accurate proxies for measuring price variation. In taking into account health care input prices, the Board shall explain what percentage of variation found should be adjusted and what percentage of the premium should be adjusted.

(d) CONGRESSIONAL CONSIDERATION.—

(1) IN GENERAL.—Detailed recommendations submitted under subsection (c)(3) shall apply under this subtitle unless a joint resolution (described in paragraph (2)) disapproving such recommendations is enacted, in accordance with the provisions of paragraph (3), before the end of the 60-day period beginning on the date on which such recommendations were submitted. For purposes of applying the preceding sentence and paragraphs (2) and (3), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(2) JOINT RESOLUTION OF DISAPPROVAL.—A joint resolution described in this paragraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the Board submits recommendations under subsection (e)(3) and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the National Health Board concerning elimination of regional variation in regional alliance premiums, as submitted by the Board on ———.", the blank space being filled in with the appropriate date; and

(C) the title of which is as follows: "Joint resolution disapproving recommendations of the National Health Board concerning elimination of regional variation in regional alliance premiums, as submitted by the Board on ———.", the blank space being filled in with the appropriate date.

• Page 995, line 5, strike "APPROVAL and insert "DISAPPROVAL".

• Page 995, line 20 and page 996, line 2, strike "subsection (e)" and insert "subsection (c)(3)".

• Page 995, line 23, strike "House of Representatives" and insert "Senate".

• Page 996, line 6, strike "paragraph (1)(A), (1)(B), or (2) of subsection (e)" and insert "subsection (c)(3)".

• Page 996, after line 7, insert the following new subsection:

(e) ELIMINATION OF REGIONAL VARIATION STATE PAYMENT AMOUNTS.—

(1) COMMISSION STUDY.—The advisory commission shall examine methods of reducing variation among State in the level of payments required under subtitle A of title IX by 2002. The commission shall examine methods of reducing variation due to practice patterns, historical differences in the rates of reimbursement to providers, and in the amount, duration, and scope of benefits covered under State Medicaid plans.

(2) COMMISSION REPORT.—The advisory commission shall submit to the Board a report that specifies one or more methods for reducing the variation described in paragraph (1).

(3) BOARD RECOMMENDATIONS.—The Board shall submit to Congress, by not later than July 1, 1995, detailed recommendations respecting the specific, method to be used to reduce the variation described in paragraph (1) by 2002 in a budget neutral manner with respect to total government payments and payments by the Federal Government. In submitting recommendations under this paragraph, the Board shall consider the fiscal capacity of the States.

(4) CONGRESSIONAL CONSIDERATION.—

(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, the provisions of subsection (d) shall apply to recommendations under paragraph (3) in the same manner as they apply to recommendations under subsection (c)(3).

(B) SPECIAL RULES.—In applying subparagraph (A)-

(i) the following shall be substituted for the matter after the resolving clause described in subsection (d)(2)(B): "That Congress disapproves the recommendations of the National Health Board concerning reduction of regional variation in State payments, as submitted by the Board on ———.": and

(ii) the following shall be substituted for the title described in subsection (d)(2)(C); "Joint resolution disapproving recommendations of the National Health Board concerning reducing regional variation in State payments, as submitted by the Board on ———.".

(f) INFORMATION.—The advisory commission shall provide the Board, States, and regional alliances with information about regional differences in health care costs and practice patterns.

Page 997, line 7, insert "premium" after "per capita.".

Page 997, line 21, insert "for the plan" after "(3))".

Page 998, line 6, insert "(II)" after "exceeds".

Page 998, line 11, strike "amount" and insert "amounts".

Page 998, line 21, strike "(4)" and insert "(3)".

Page 999, lines 17 and 20, strike "(i)" and "(ii)" and insert "(A)" and "(B)".

Page 999, lines 17 through 22, move the indentation 2 ems to the left.

Page 999, line 24, strike ", subject to paragraph (3),".

Page 1000, line 3, strike "6002" and insert "6003".

Page 1000, line 17, insert "the" after "(i)".

Page 1002, line 14, strike "paragraphs (B) and (C)" and insert "paragraph (B)".

Page 1002, line 14, strike "adjusted plan" and insert "applicable network".

Page 1002, line 15, strike "network" and insert "participating".

Page 1003, copy the sentence beginning on line 6 at the end of line 14 on page 1004.

Page 1003, line 23, strike "adjusted plan" and insert "applicable nonnetwork".

Page 1003, line 24, strike "nonnetwork" and insert "nonparticipating".

Page 1004, line 8, strike "adjustment" and insert "increase".

Page 1005, line 4, strike "1997" and insert "1998".

Page 1005, line 15, strike "2000" and insert "2001".

Page 1006, line 15, strike "1997" and insert "1998".

Page 1007, line 6, strike "(beginning on or after 2000)" and insert "(after 2000)".

Page 1008, line 16, strike "Unites' and insert "United".

*[Subtitle B—Premium-Related Financing]*

Page 1012, line 6, strike "sum of the".

Page 1012, line 13; page 1013, line 17; and page 1015, line 22; strike "1364" and insert "1384".

Page 1013, line 9, strike "established" and insert "specified".

Page 1013, line 9, strike the semicolon and insert a comma.

Page 1013, line 20, strike "and" and insert ", if".

Page 1013, line 25, insert "if such combined premium is less than the total of the premiums otherwise applicable (without regard to this subsection)" after "applied".

Page 1014, line 1, insert "combined" before "premium".

Page 1014, line 4, insert "in such case," after "(3)".

Page 1014, line 12, strike "6000(c)" and insert "6000(b)".

Page 1014, line 15, strike "health".

Page 1015, line 2, strike "subpart B of part 2 of subtitle B of title" and insert subpart D of page 3 of subtitle".

Page 1015, line 8, strike "this subsection" and insert "subsection (c)".

Page 1015, line 24, strike "low" and insert "lower".

Page 1016, line 1, strike "section 1903( )) for that class" and insert "paragraphs (7) and (20) of section 1902 for the class and premium area)".

Page 1016, line 4, strike "6013" and insert "6013(b)".

Page 1016, line 11, strike "1902( )" and insert "1901(a)(1)(A)".

Page 1016, line 11, strike "as determined under clause (ii),".

Page 1016, line 20 strike "1902( )" and insert "1902(9)".

Page 1018, line 12, strike "described" and insert "as defined".

Page 1018, after line 13, insert the following:

(4) MONTHLY APPLICATION TO AFDC AND SSI FAMILIES.—Paragraph (1)(A) (and the family obligation amount under subsection (c) insofar as it relates to an AFDC or SSI family) shall be applied to the premium or family obligation amount only for months in which the family is such an AFDC or SSI family.

Page 1018, line 17, insert "the" after "of" the second place it appears.

Page 1019, line 11, strike "LOWER-THAN-AVERAGE-COST" and insert "AT-OR-BELOW-AVERAGE-COST".

Page 1019, line 14 and 23, strike "lower-than-average-cost" and insert "at-or-below-average-cost".

Page 1019, line 22, strike "LOWER-THAN-AVERAGE-COST" and insert "AT-OR-BELOW-AVERAGE-COST".

Page 1020, line 9, strike "determined under section 1332(a)" and insert "defined in section 1372(d)".

Page 1020, line 24, strike "(2)(A)" and insert "(2)".

Page 1021, line 10, strike "(2)(B)" and insert "(2)".

Page 1022, line 10, strike "(ii)" and insert "(II)" and indent the line 2 additional ems (so the indentation corresponds to subclause (I) in lines 3 through 9).

Page 1023, line 5, strike "(ii)" and insert "(II)" and indent the line 2 additional ems (so the indentation corresponds to subclause (I) in lines 1 through 4).

Page 1023, amend line 14 through 20 to read as follows:

(A) IN GENERAL.—

(i) FAMILIES WITH INCOME BELOW 150 PERCENT OF POVERTY.—In the case of a family with family adjusted income of less than 150 percent of the applicable poverty level, in no case shall the family obligation amount under this subsection for the year exceed 3.9 percent (adjusted under subparagraph (C)) of the amount of such adjusted income.

(ii) OTHER FAMILIES WITH INCOME BELOW $40,000.—In the case of a family with family adjusted income of a least 150 percent of the applicable poverty level but less than $40,000 (adjusted under subparagraph (B)) for a year, the family obligation amount under this subsection for the year is equal to 3.9 percent (adjusted under subparagraph (C)) of the amount of such adjusted income.

Page 1023, line 24, strike "(A)" and insert "(A)(i)"

Page 1024, line 3, and page 1025, line 17, strike "1902( )" and insert "1902(9)".

Page 1024, line 19, insert "the" "plus".

Page 1024, line 22, strike "increase or decrease".

Page 1027, line 16, insert "(as defined in section 6000(a)(1))" after "bid".

Page 1027, line 18, insert "premium" after "capital".

Page 1027, line 23, strike the comma.

Page 1029, line 13, delete the space before the period.

Page 1031, line 9, strike "6103" and insert "6103(a) for a month".

Page 1031, line 10, strike "of the amount of such credit in accordance with section 1343" and insert "of an amount equal to the base employment monthly premium (applicable to such class) for the month under section 6122".

Page 1031, line 24 and 25, strike the commas.

Page 1032, line 6, strike "such rules" and insert "rules of the Board".

Page 1032, line 9, insert "(except in the case described in section 6114(a))" after "and".

Page 1032, line 14, strike "1902(b)(2)" and insert "1901(b)(2)(A)".

Page 1032, line 19, strike "6121(d)" and insert "1901(b)(2)(A)".

Page 1032, line 21, strike "6121(d)" and insert "1901(b)(2)(B)".

Page 1033, line 2, insert "of" after "(2))".

Page 1033, line 11, insert "For purposes of paragraph (1)—" after the dash.

Page 1034, line 19, and page 1038, line 12, strike "part 2" and insert "part 3".

Page 1035, line 1, strike "paragraph (2)" and insert "subsection (f)".

Page 1036, line 23, strike "alliance credit" and insert "repayment amount described in section 6111(a)".

Page 1036, line 24, insert "level" after "poverty".

Page 1037, strike lines 2 through 8.

Page 1037, after line 8, insert the following:

(3) MONTHLY APPLICATION TO AFDC AND SSI FAMILIES.—Paragraph (1) insofar as it relates to an AFDC or SSI family shall be applied so as to reduce to zero the liability amount only for months in which the family is such an AFDC or SSI family.

Page 1038, line 2, strike "6121(e)" and insert "1901(b)(3)".

Page 1038, line 5, strike "6126)" and insert "6126".

Page 1038, line 24, strike "susection" and insert "subsection".

Page 1039, line 4, strike "subsection (a)" and insert "this section".

Page 1039, line 13, and page 1040, line 21, strike "6121(d)(1)(A)" and insert "1901(b)(2)(A)".

Page 1041, strike lines 3 through 8.

Page 1041, line 9, strike "(e)" and insert "(d)".

Page 1041, line 17, strike "1374(h)" and insert "1274(i)(2)".

Page 1041, line 24, insert "or parents" after "spouse" each place it appears.

Page 1042, line 13, strike "1345" and insert "1345" and insert "1345(c)".

Page 1042, line 15, strike the comma.

Page 1042, line 17, strike "1902(b)(1)" and insert "1901(b)(1)".

Page 1043, line 18, strike "employer" and insert "employment".

Page 1044, line 16, strike "STATE" and insert "STATE".

Page 1045, line 13, strike "and" and insert ", if".

Page 1046, line 20, strike "equal to" and all that follows through page 1047, line 7, and insert the following:

as follows:

(1) INDIVIDUAL ENROLLMENT.—The base employment monthly premium for the individual class of enrollment is equal to 1/12 of 80 percent of the credit-adjusted weighted average premium (as defined in paragraph (4)) for such regional alliance for the individual class of enrollment.

(2) COUPLE-ONLY ENROLLMENT.—

(A) IN GENERAL.—The base employment monthly premium for the couple-only class of enrollment is equal to 1/12 of 80 percent of the product described in subparagraph (B), divided by the sum described in subparagraph (C).

(B) TOTAL PREMIUMS FOR COUPLE-ONLY ENROLLMENTS.—The product described in this subparagraph is—

(i) the credit-adjusted weighted average premium for such regional alliance for the couple-only class of enrollment, multiplied by

(ii) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(C) NUMBER OF WORKERS AND EXTRA WORKERS.—The sum described in this subparagraph is—

(i) the sum specified in subparagraph (B)(ii), plus

(ii) the number of additional workers (determined under subsection (b)(1)), for families receiving coverage within such class from regional alliance health plans offered by the regional alliance.

(3) SINGLE AND DUAL PARENT ENROLLMENTS.—

(A) IN GENERAL.—The base employment monthly premium for the single parent and dual parent classes of enrollment is equal to 1/12 of 80 percent of the sum described in subparagraph (B), divided by the sum described in subparagraph (C).

(B) TOTAL PREMIUMS FOR SINGLE AND DUAL PARENT ENROLLMENTS.—The sum described in this subparagraph is the sum of the products described in the following clauses:

(i) TOTAL PREMIUMS FOR SINGLE PARENT ENROLLMENT.—The product of—

(I) the credit-adjusted weighted average premium for such regional alliance for the single parent class of enrollment, multiplied by

(II) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such month.

(ii) TOTAL PREMIUMS FOR DUAL PARENT ENROLLMENT.—The product of—

(I) the credit-adjusted weighted average premium for such regional alliance for the dual parent class of enrollment, multiplied by

(II) the sum, for all the months in the year, of the number of covered families receiving coverage through regional alliance health plans of the regional alliance within such class of enrollment in each such months.

(C) NUMBER OF WORKERS AND EXTRA WORKERS.—The sum described in this subparagraph is—

(i) the sum specified in subparagraph (B)(i)(II); plus

(ii) the sum specified in subparagraph (B)(ii)(II); plus

(iii) the number of additional workers (determined under subsection (b)(1)), for families receiving coverage within the dual parent class of enrollment from regional alliance health plans offered by the regional alliance.

(4) CREDIT-ADJUSTED WEIGHTED AVERAGE PREMIUM DEFINED.—In this subsection, the term "credit-adjusted weighted average premium' means, for a class of enrollment and a regional alliance, the weighted average premium for the class and alliance, reduced by the amount described in section 6106(b) for such class and alliance.

Page 1047, amend lines 8 and 9 to read as follows:

(b) DETERMINATION OF ADDITIONAL WORKERS FOR COUPLE-ONLY AND DUAL PARENT CLASS.—

Page 1047, line 13, strike "average, annual, estimated number of premium payments per family" and insert "estimated total number of additional workers".

Page 1047, line 15, insert "12 times" after "(A)".

Page 1047, line 19, strike "divided by" and insert "minus".

Page 1047, amend lines 20 through 22 to read as follows:

(B) the sum described in subsection (a)(2)(B)(ii) or (a)(3)(B)(ii)(II) for the couple-only and dual parent classes, respectively.

Page 1048, line 10, strike "couple" and insert "couple-only or dual parent".

Page 1048, line 12, strike the comma.

Page 1048, line 16, strike "1902(b)(2)(A)" and insert "1901(b)(2)(A)".

Page 1049, amend lines 13 through 19 to read as follows:

(A) the alliance's estimate of the estimated total number of additional workers for the alliance and the estimate of the number of covered families, and

(B) the actual total number of additional workers and the actual number of covered families,

the estimated total number of additional workers to be applied under this section

Page 1050, line 5, strike "(relating to cost containment)".

Page 1050, line 9, strike "(A) FOR FIRST YEAR.—" and run in the succeeding sentence at the end of line 8.

Page 1050, strike lines 16 through 23.

Page 1051, line 5, strike "subsections (a) and (c)" and insert "this section".

Page 1051, line 18, strike "part" and insert "subpart".

Page 1052, in the table following line 19, strike "fewer than" and insert "not over".

Page 1053, line 6, strike "subject to subsection (b)(3)(C)(i),".

Page 1053, line 18, strike "1902(b)(2)" and insert "1901(b)(2)".

Page 1053, line 19, insert "PER FULL-TIME EQUIVALENT EMPLOYEE" after "WAGES".

Page 1053, line 21, insert "per full-time equivalent employee" after "wages".

Page 1055, line 5, strike "part" and insert "subpart".

Page 1055, after line 16, insert the following:

(h) TREATMENT OF MULTI-ALLIANCE EMPLOYERS.—In the case in which this section is applied to an employer that makes employer premium payments to more than one regional alliance, the reduction under this section shall be applied in a pro-rated manner to the premium payments made to all such alliances.

Page 1056, line 12, insert "(i)" after "(C)".

Page 1057, line 9, strike "1311(b)(1)(C)" and insert "1311(c)(1)(B)".

Page 1057, line 16, strike "1311(d)(3)" and insert "1311(e)(3)".

Page 1057, line 19, strike "percentage (as defined" and insert "proportion (specified".

Page 1057, line 24, and page 1058, line 1, insert "risk" after "excess".

Page 1058, line 1, insert "RISK" after "EXCESS".

Page 1058, lines 17, 21, and 22, strike "extra" and "EXTRA" each place they appear and insert "excess" and "EXCESS".

Page 1059, line 22, strike "is" and insert "may be".

Page 1061, line 18, insert after the period the following: "The reduced weighted average accepted bid is used under section 6000(b)(1) in computing the weighted average premium, which in turn is used under section 6122(a)(1) in computing the base employment monthly premium, which in turn is used under section 6121(b)(2)(A) in computing the employer premium amount."

Page 1061, line 24, strike "1901(6)" and insert "1901(c)(2)".

Page 1063, line 19, strike "sham" and insert "fraudulent".

Page 1065, line 1, strike "1364(b)" and insert "1384(b)".

Page 1065, line 14, strike "cost containment" and insert "premium caps".

*[Subtitle C—Payments to Regional Alliance Health Plans]*

Page 1066, line 21, strike "1342" and insert "1351".

Page 1067, line 2, strike "subsection (d)" and insert "section 6202(d)".

Page 1068, line 7, strike "type" and insert "class".

Page 1071, line 7, strike ", the amount by which".

Page 1071, line 10, strike "exceeds" and insert "minus".

Page 1071, lines 11 and 12, indent 2 additional ems so it reflects the indentation of lines 8 through 10.

Page 1071, line 20, strike "(b)(1)" and insert "(b)(1)".

TITLE VII CHANGES

*[Subtitle A—Financing Provisions]*

Page 1088, strike lines 1, 2, and 3, and insert the following:

**PART 2—HEALTH RELATED ASSESSMENTS**

**SEC. 7121. HEALTH RELATED ASSESSMENTS.**

Page 1088, strike lines 7 and 8 (but not the material following line 8) and insert the following:

**"CHAPTER 24A—HEALTH RELATED ASSESSMENTS**

"Subchapter A. Assessment on corporate alliance employers.

"Subchapter B. Temporary assessment on employers with retiree health benefit costs.

"Subchapter C. Definitions and administrative provisions.

**"Subchapter A—Assessment on Corporate Alliance Employers**

Page 1090, line 4, insert "to the extent attributable to payroll described in paragraph (2)(B)" before the period.

Page 1090, strike lines 5 through 22.

Page 1091, line 1, strike ".—In the case of an" and insert "IN MULTIEMPLOYER CORPORATE ALLIANCES.—An".

Page 1091, line 7, strike ", the payroll" and all that follows through line 9 and insert "is not subject to the assessment under this section. In the case of an employer who is a corporate alliance employer in part (but not solely) by reason of such employees, the payroll of such employer shall be determined without taking into account such employees.".

Page 1092, line 3, insert "the first sentence of" after "to in".

Page 1092, strike lines 4 through 8 and insert the following:

**"Subchapter B—Temporary Assessment on Employers with Retiree Health Benefit Costs**

Page 1092, strike line 9 and all that follows through the material preceding line 19 and insert the matter on page 1337, line 13 through page 1342, before line 8 (subject to the following changes):

On page 1337, line 13, strike "**3463**" and insert "**3462**".

On page 1340, line 13, strike "**B**" and insert "**C**".

On page 1340, line 15, strike "**3464**" and insert "**3463**".

On page 1341 , line 7, strike "ASSESSMENT" and insert "ASSESSMENTS".

On page 1341, line 10, strike "assessment" and insert "assessments".

On page 1341, amend lines 19 through 24 to read as follows:

"(1) PAYMENT.—

"(A) SECTION 3461.—Any assessment under section 3461 shall be paid at the same time and in the same manner as the tax imposed by chapter 21.

"(B) SECTION 3462.—Any assessment under section 3462 for any calendar year shall be paid on or before March 15 of the following calendar year; except that the Secretary may require quarterly estimated payments of such assessment in a manner similar to the requirements of section 6655.

On page 1342, line 7, strike "24A" and insert "24".

On page 1342, in the matter between lines 7 and 8, strike "24B. Temporary Assessment on Employers With Retiree Health Benefit Costs" and insert "24A. Health-related assessments".

Page 1094, line 3, strike "1999" and insert "1997".

Page 1094, line 21, before the sentence beginning with "If" insert the following (and indent the sentence 2 ems):

"(1) IN GENERAL.—

Page 1094, line 24, and page 1095, line 3, strike "$10,000" and insert "$15,000".

Page 1095, after line 3, insert the following:

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$30,000' for '$15,000' each place it appears.

Page 1096, line 24, strike the closing quotation marks.

Page 1096, after line 24, insert the following:

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d)."

Page 1100, amend lines 3 through 6 to read as follows:

"(c) DUE DATE FOR RETURNS AND STATEMENTS.—The written return required under subsection (a) shall be made, and the statement required under subsection (b) shall be furnished to the individual, on or before January 31 of the second year following the calendar year for which the return under subsection (a) is required to be made."

Page 1100, line 11, strike "6050Q" and insert "6050Q(a)".

Page 1100, line 19, strike "returns" and insert "statements".

Page 1101, line 1, insert "CERTAIN" after "OF".

Page 1101, beginning on line 1, strike "FOR 1996".

Page 1101, line 10, strike "2001" and insert "1999".

*[Subtitle B—Tax Treatment of Employer-Provided Health Care]*

• Page 1110, line 4, and page 1111, line 23, strike "2003" and insert "2004".

• Page 1110, line 9, strike "or".

• Page 1110, after line 9, insert the following:

"(B) such coverage consists of coverage of cost sharing amounts under the comprehensive benefit package described in such section (including such coverage under a cost sharing policy under section 1421(b)(2) of such Act), or

• Page 1110, line 10, strike "(B)" and insert "(C)".

*[Subtitle C—Employment Status Provisions]*

• Page 1119, line 3, strike "**DEFINITION OF EMPLOYEE**" and insert "**ANTIABUSE REGULATIONS RELATING TO EMPLOYMENT STATUS**".

• Page 1119, line 4, strike "Chapter" and insert "In order to prevent misclassification of workers so as to minimize payments under this Act, chapter".

• Page 1119, amend lines 15 through 20 to read as follows:

"(b) SCOPE OF REGULATIONS.—Such regulations may modify the rules otherwise applicable for the determinations referred to in paragraphs (1) and (2) of subsection (a); except that—

"(1) such regulations shall give significant weight to the common law applicable in determining the employer-employee relationship, and

"(2) nothing in such regulations shall modify the provisions of paragraph (1), (3), or (4) of section 3121(d), section 3506, section 3508, or section 3511."

• Page 1120, before line 1, insert the following:

(c) EFFECTIVE DATE.—The regulations described in section 3510 of the Internal Revenue Code of 1986 (as added by this section) shall be effective for periods beginning no earlier than the date which is 6 months after the date such regulations are promulgated as final regulations.

(d) REPORT TO CONGRESS.—Upon issuance of the regulations described in section 3510 of the Internal Revenue Code of 1986 (as added by this section) as final regulations, the Secretary of the Treasury shall submit a report to Congress relating to such regulations, including an explanation of their purposes and the issues they are designed to address.

*[Subtitle D—Tax Treatment of Funding Retiree Health Benefits]*

*[Subtitle E—Coordination with COBRA Continuing Care Provisions]*

*[Subtitle F—Tax Treatment of Health Care Organizations]*

Page 1135, line 21, strike "(m)(3)(B)(i)" and insert "(m)(6)(B)(i)".

Page 1136, line 3, strike "NOT".

Page 1136, line 6, strike "not".

Page 1136, line 13, insert "NOT" before "TREATED".

Page 1136, line 16, insert "not" after "shall".

Page 1138, line 19, strike "and".

Page 1138, after line 19, insert the following:

"(2) which is not taxable as a life insurance company under part I of this subchapter, and

Page 1138, line 20, strike "(2)" and insert "(3)".

Page 1139, line 15, strike the closing parenthesis.

Page 1139, after line 15, insert the following flush sentence:

In the case of an organization which has as a material business activity the issuing of accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts, the administering of accident and health insurance contracts by such organization shall be treated as part of such business activity for purposes of paragraph (3)(A)."

*[Subtitle G—Tax Treatment of Long-term Care Insurance and Services]*

*Subtitle H—Tax Incentives for Health Services Providers]*

*[Subtitle I—Miscellaneous Provisions]*

TITLE VIII CHANGES

*[Subtitle A—Military Health Care Reform]*

Page 1183, line 20, insert "at least" after "in the plan".

Page 1188, line 3, strike the sentence beginning "The Secretary" and insert "The payment responsibilities of Medicare under this paragraph shall be in the same amounts and under the same terms and conditions under which the Secretary of Health and Human Services makes payments to eligible organizations with a risk-sharing contract under section 1876 of the Social Security Act.".

Page 1188, line 13, strike "plan" and insert "program".

Page 1189, line 21, strike "shall be required to pay a family share under section 1342" on line 22 and insert "shall have such payment responsibilities as the Secretary establishes, but not to exceed payment of a family share under section 1343".

*[Subtitle B—Department of Veterans Affairs]*

• Page 1193, after line 12, conform the table of sections in the new chapter 18 of title 38 to the changes below.

• Page 1195, line 17, strike "**described**".

• Page 1195, line 22, insert "that veteran and " after "applicable to".

• Page 1195, line 18, strike "each veteran described in section 1823(a) of this title" and insert "veterans".

• Page 1196, strike lines 1 through 4.

• Page 1196, transfer lines 5 through 25 to page 1199, immediately before line 3.

• Page 1197, strike lines 1 through 12.

• Page 1197, strike line 14 and all that follows through page 1198, line 4.

• Page 1198, line 5, strike "(b)".

• Page 1198, line 7, strike "and cost sharing policies" and insert "and may offer cost sharing policies. Such supplemental policies and cost sharing policies shall be".

• Page 1198, line 10, strike "**1825**" and insert "**1824**".

• Page 1198, beginning on line 21, strike "section 1823(a) of this title" and insert "subsection (b)".

• Page 1199, after line 2, insert the following:

"(b) The veterans referred to in subsection (a) are the following:

• Page 1199, line 3, strike "(b) For other VA enrollees" and insert "(c) In the case of a VA enrollee who is not described in subsection (b)".

• Page 1199, after line 9, insert the following:

"(d) In the case of a veteran with a service-connected disability who is enrolled in a VA health plan and who has net earnings from self-employment, the Secretary shall, under regulations prescribed by the Secretary, provide for a reduction in any premium payment (or alliance credit repayment) owed by the veteran under section 6126 or 6111 of the Health Security Act by virtue of the veteran's net earnings from self-employment.

Page 1199, line 13, strike "VA health plan or".

Page 1199, strike lines 16 through 20 and insert the following:

"(b)(1)A VA health plan shall be considered to be a Medicare HMO.

Page 1199, line 25, strike "section 1823(a)" and insert "section 1831(b)".

Page 1200, beginning on line 5, strike "on the same basis" and insert "in the same amounts and under the same terms and conditions".

Page 1201, line 12, strike "**Funds**" and insert "**Fund**".

Page 1201, strike lines 13 and 14 and insert the following:

"(a) There is hereby established in the Treasury a revolving fund to be known as the 'Department of Veterans Affairs Health Plan Fund'.

Page 1201, line 23, strike "of that health plan".

Page 1201, beginning on line 24, strike "a VA health plan" and insert "the Department".

Page 1202, strike lines 4 and 5.

Page 1202, strike lines 6 through 9 and insert the following:

"(d) Amounts in the revolving fund are hereby made available for the expenses of the delivery by a VA health plan of the items and services in the comprehensive benefit package and any supplemental benefits package or policy offered by that health plan.

Page 1203, line 1 strike "to any veteran who is" and insert "by any facility of the Department (whether or not operating as or within a health plan certified as a health plan under the Health Security Act) in the case of a veteran who is not".

Page 1206, line 9, insert ", except that the Secretary shall provide for preference for preference eligibles (as defined in section 2108 of title 5, United States Code) in a manner comparable to the preference for such eligibles under subchapter I of chapter 33, and subchapter I of chapter 35, of such title" before the period.

• Page 1206, after line 16, insert the following;

**"§ 7345. Veterans Health Care Investment Fund**

"(a) There is hereby authorized to be appropriated to the Department, in addition to amounts otherwise authorized to be appropriated to the Department for VA health plans, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirement of subsection (b).

"(b) For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall, subject to subsection (a), credit to a special fund (in this section referred to as the 'Fund') of the Treasury an amount equal to—

"(1) $1,000,000,000 for fiscal year 1995;

"(2) $600,000,000 for fiscal year 1996; and

"(3) $1,700,000,000 for fiscal year 1997.

"(c)(1) Subject to paragraph (2), amounts in the Fund shall be available to the Secretary only for the VA health plans authorized under this chapter.

"(2) For fiscal year 1995, 1996, or 1997, the amount credited to the Fund for the fiscal year shall be available for use by the Secretary under paragraph (1) only if appropriations Acts for that fiscal year, without addition of amounts provided under subsection (a) for the Fund, provide new budget authority for the Department of Veterans Affairs Medical Care account, for that fiscal year, of no less than the amount for that account proposed in the budget of the President for that fiscal year under section 1105 of title 31.

"(d) The Secretary shall submit to Congress, no later than March 1, 1997, a report concerning the operation of the Department of Veterans Affairs health care system in preparing for, and operating under, national health care reform under the Health Security Act during fiscal years 1995 and 1996. The report shall include a discussion of—

"(1) the adequacy of amounts in the Fund for the operation of VA health plans;

"(2) the quality of care provided by such plans;

"(3) the ability of such plans to attract patients; and

"(4) the need (if any) for additional funds for the Fund in fiscal years after fiscal year 1997.

• Page 1206, line 17, strike "**7345**" and insert "**7346**".

• Page 1207, conform the table of sections following line 6.

• Page 1207, after the table of sections following line 6, insert the following:

(c) TRANSITION PROVISION.—The limitation in the second sentence of section 7344(c) of title 38, United States Code, as added by subsection (a), shall not apply during fiscal year 1994.

*[Subtitle C—Federal Employees Health Benefits Plan]*

Page 1207, line 17, and page 1208, lines 2, 5, and 9, insert "(as last in effect)" before the period.

Page 1208, line 18, insert ", as last in effect" after "851)".

Page 1209, line 18, strike "individual or".

Page 1209, line 11; page 1212, line 7; page 1213, lines 6, 8, and 11; page 1214, line 6; page 1215, line 6; page 1219, line 11; strike "a FEHBP" and insert "an FEHBP".

Page 1210, line 1, strike "OPTIONAL OFFER" and insert "OFFER".

Page 1210, line 2, strike "may" and all that follows through "(A)" on line 4 and insert "shall".

Page 1210, line 6, strike "; and" and all that follows up to the period on line 13.

Page 1210, move 2 ems to the left the indentation of lines 4 through 6.

Page 1210, line 24, redesignate the matter after the dash as a clause (i), with the following heading: IN GENERAL.—

Page 1211, after line 9, inset the following:

(ii) REFERENCES.—Any reference in clause (i) to the Office of Personnel Management shall, for purposes of any annuity (including monthly compensation under subchapter I of chapter 81 of title 5, United States Code) payable under provisions of law which are administered by a Government entity other than the Office, be considered to be a reference to such other Government entity.

Page 1211, line 13, strike "6115" an insert "6114".

Page 1212, line 6, strike "paragraph" and insert" subparagraph".

Page 1212, line 18, strike "may" and all that follows through "(i) to" on line 19 and insert "shall".

Page 1212, line 21, strike "; and" and all that follows up to the period on line 24.

Page 1212, move 2 ems to the left the indentation of lines 4 through 6.

Page 1215, line 1, strike "of a medicare select plan (as defined in paragraph (3)" and insert "for enrollment with an eligible organization under a risk-sharing contract under section 1876 of the Social Security Act".

Page 1217, line 19; page 1218, line 7; page 1221, line 23, insert "last" after "benefits".

Page 1217, line 20; page 1218, line 8; page 1221, line 24, strike "(as last in effect)".

Page 1221, line 17, strike ", but for this subtitle," and insert "(but for this subtitle)".

Page 1221, line 23, strike "them" and insert "to annuitants".

Page 1221, line 24, insert "to retired employees under" after "and".

Page 1222, line 17, strike "subtitle C of title VIII of the Health Security Act" and insert "this subtitle".

*[Subtitle D—Indian Health Service]*

Page 1229, line 25, strike "a premium" and insert "premiums".

Page 1230, line 12, insert "reside" after "(A)".

Page 1230, line 18, strike "pay" and insert "provide for payment".

Page 1231, line 15, strike "8303(a)(1)" and insert "8302(a)".

Page 1231, line 19 and following, strike "payors" and insert "payers" each place such term appears.

Page 1233, line 8, strike "System" and insert "Service system".

Page 1235, line 4, strike "AUTHORIZATIONS" and all that follows through the period on line 5 and insert "AUTHORIZATIONS OF APPROPRIATIONS.".

Page 1235, beginning on line 8, strike "from the Public Health Service Initiatives Fund (established in section 3701)".

Page 1235, line 16, strike "described in such subsection" and insert "of carrying out this subtitle".

•Page 1235, after line 17, insert the following:

**SEC. 8314. PAYMENT OF PREMIUM DISCOUNT EQUIVALENT AMOUNTS FOR UNEMPLOYED INDIANS.**

(a) DETERMINATION.—The Secretary shall determine (and certify) to the Secretary of the Treasury) for each fiscal year (beginning with fiscal year 1998) an amount equivalent to the aggregate amount of the premium discounts (established in section 6104) that would have been paid to individuals described in subsection (c) if such individuals had been enrolled in regional alliance health plans.

(b) PAYMENT.—For each fiscal year for which an amount is certified to the Secretary of the Treasury under subsection (a), from the funds available under section 9102, such Secretary shall pay the amount so certified to the Indian Health Service for the purpose of providing the comprehensive benefit package.

(c) INDIVIDUAL DESCRIBED.—For purposes of this section, an individual described in this subsection is an individual described in section 8302(a) who is not a qualifying employee or a family member of such an employee.

*[Subtitle E—Amendments to ERISA]*

Page 1237, line 2, strike "parts 1 and 4" and insert "parts 1, 4, and 6".

Page 1237, line 16, strike "subparagraph (A)" and insert "clause (i)".

Page 1238, line 12, strike "parts 1 and 4" and insert "parts 1, 4, and 6".

Page 1239, beginning on line 7, strike "provisions" and insert "subsections".

Page 1239, line 15, strike "parts 1 and 4" and insert "parts 1, 4, and 6".

Page 1239, line 21, insert "(29 U.S.C. 1030)" after "section 110".

Page 1239, line 23, insert "(29 U.S.C. 1030)" after "section 111".

Page 1240, line 4, insert "(a)" after "SEC. 111.".

Page 1242, line 9, strike "1161(a)" and insert "1162(2)".

Page 1242, line 22, strike "1167(2)" and insert "1167(3)".

Page 1243, line 18, insert "or" after "606".

Page 1244, line 20, strike "such Act" and insert "the Employee Retirement Income Security Act of 1974".

Page 1244, beginning on line 21, strike "subsection" and insert "paragraph".

Page 1245, line 11, add after "CORRECTIONS.—" the following: "Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993—".

Page 1245, beginning on line 12, strike "section 601 of such Act (as redesignated by section 8403)" and insert "section 609 of the Employee Retirement Income Security Act of 1974".

Page 1245, line 16, strike "601" and insert "609".

Page 1245, line 19, strike "601" and insert "609".

Page 1246, line 19, strike "the Health Security Act" and insert "section 1200 of this Act".

*[Subtitle F—WIC]*

Page 1248, line 21, strike "$4,126,000,000" and insert "$4,136,000,000".

TITLE IX CHANGES

*[Subtitle A—Aggregate State Payments]*

• Page 1250, line 8, strike all that follows the dash through "each participating" on line 10 and insert "Each" (and move the indentation of lines 10 through 13 2 ems to the left).

• Page 1250, strike lines 14 through 18.

• Page 1251, line 23, insert "for each State" after "determine".

• Page 1252, line 15, insert "RECEIVING AFDC OR SSI" after "CHILDREN".

• Page 1252, line 18, insert "of the Social Security Act" after "1905(a)".

• Page 1252, line 19, insert "of such Act" after "1905(r)".

• Page 1252, line 21, insert "of such Act" after "1933(c)".

• Page 1252, line 22, insert "of such Act who are AFDC or SSI recipients" after "1934(b)(1)".

• Page 1252, line 24, insert "for each State" after "mine".

• Page 1254, line 11, strike "assistance" and insert "assistance".

• Page 1255, line 18, and page 1256, line 5, strike "DSH" and insert "DSH".

• Page 1257, line 15, strike "4221(c)" and insert "4222(a)".

• Page 1258, line 6, strike "Each" and insert "Subject to subsection (c), each".

• Page 1259, after line 6, insert the following:

(c) ADDITIONAL AMOUNT.—The amount of payment under subsection (a) for a State for a year shall be increased by the State medical assistance percentage multiplied by the sum of the followings:

(1) AMOUNT OF SPECIAL INCREASE IN PREMIUM DISCOUNT.—The aggregate increase in the premium discounts under section 6104 for AFDC and SSI families enrolled in regional alliance health plans in the State that is attributable to subsection (b)(2) of such section, and

(2) AMOUNT OF BASIC COST SHARING REDUCTION.—The amount of any cost sharing reduction under section 1371(c)(1) for such families.

Page 1259, line 17, insert "regional alliance" after "the".

• Page 1260, line 16, strike "paragraph (2)" and insert "subparagraph (B), or, if less, the increase percentage specified in subparagraph (C)".

• Page 1260, line 19, strike "paragraph (1)" and insert "subparagraph (A)".

• Page 1260, line 20, strike "paragraph" and insert "subparagraph".

• Page 1260, after line 24, insert the following:

(C) INCREASE PERCENTAGE.—

(1) IN GENERAL.—The increase percentage for a State specified in this subparagraph is the Secretary's estimate of the percentage increase in the per capita expenditures specified in clause (ii) from fiscal year 1993 through the year before the first year, adjusted so as to eliminate any change in medicaid expenditures that is attributable to a reduction in the scope of services, an arbitrary reduction in payment rates, or a reduction in access to high quality services under the State medicaid plan.

(ii) PER CAPITA EXPENDITURES.—The per capita expenditures specified in this clause for a year is the quotient of the baseline medicaid expenditures for the State (determined as if the year were substituted for 1993), divided by the number of AFDC recipients enrolled in the State medicaid plan for the year.

Page 1261, line 1, strike "(C)" and insert "(D)".

Page 1263, line 5, strike "for each regional alliance".

Page 1264, line 5, strike "9011(b)" and insert "9011(a)".

Page 1265, line 14, strike "baseline" and insert "base".

Page 1265, line 15, strike "medicaid expenditures" and insert "expenditures for medicaid".

Page 1266, line 21, strike "the the" and insert "the".

Page 1267, line 14, insert "Commonwealth or" after "such a".

Page 1267, line 15, strike "an appropriate" and all that follows through "based on" on line 17 and insert "the State payments under part 1 taking into account".

Page 1267, line 21, strike "would would" and insert "that would."

Page 1268, strike lines 1 through 9 (and redesignate the succeeding paragraph accordingly).

• Page 1268, line 10, strike "(3)" and insert "(2)".

Page 1268, line 11, insert "not covered under the supplementary security income program" after "territories".

Page 1268, line 11, insert "Commonwealths and" after "such".

Page 1268, line 12, strike "means" and insert "includes".

Page 1268, line 25, insert "(A)" before "95 percent".

Page 1269, line 2, insert ", plus (B) the sum described in section 9011(c)" before the period.

Page 1269, line 14, insert "and, in consultation with the Secretary of the Treasury, the cash management interests of the Federal Government" before the period.

*[Subtitle B—Aggregate Federal Alliance Payments]*

Page 1270, line 22, insert "amount" after "payment".

Page 1271, line 21, strike "not otherwise counted".

Page 1272, line 9, strike "subpart B of part 1" and insert "subtitle B of title VI".

Page 1272, line 15, strike "1895 of the Social Security Act" and insert "1894 of the Social Security Act (as added by section 4003)".

Page 1275, line 10, strike "States" and insert "regional alliances".

Page 1275, line 22, and page 1276, line 15, strike "(4)" and insert "(3)".

Page 1278, line 20, strike "(4)(A)" and insert "(4)(B)".

Page 1279, line 14, strike "House of Representatives" and insert "Senate".

*[Subtitle C—Borrowing Authority]*

Page 1281, line 5, strike the comma.

• Page 1281, after line 15, insert the following:

(5) LIMITATION ON LOAN BALANCE OUTSTANDING TO A REGIONAL ALLIANCE.—The total balance of loans outstanding at any time to a regional alliance shall not exceed—

(A) for the first year, 25 percent of the estimated total premiums for the alliance for such year, or

(B) for a subsequent year, 25 percent of the actual total premiums for the alliance for the previous year.

Page 1282, line 6, strike "ERROR" and insert "DISCREPANCY".

Page 1282, line 15, strike "under section 1343(b)(2)" and insert "section 1351(c)".

Page 1283, line 2, strike "include the" and all that follows through line 13 and insert "are errors described in section 9102(b)(4)(B)(ii).".

Page 1283, line 16, strike "(b)(3)" and insert "(b)(4)".

Page 1283, line 20, strike "under section 6122(b)".

Page 1283, line 24, insert "the" after "to".

Page 1284, line 4, strike "6017(b)(2)(C))" and insert "6107(b)(2)(C)".

• Page 1284, after line 4, insert the following:

(g) ADVANCES; LIMITATIONS ON ADVANCES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Treasury is authorized to advance to the Secretary, under terms and conditions determined by the Secretary of the Treasury, amounts sufficient to cover the loans made to regional alliances by the Secretary under this section.

(2) LIMITATION.—The total balance of Treasury advances outstanding at any time to the Secretary under paragraph (1) shall not exceed $3,500,000,000.

TITLE X CHANGES

Page 1289, line 6, and page 1290, line 3, strike "10011" and insert "10011(b)".

Page 1289, line 21, strike ", INDIANS, AND PRISONERS" and insert "AND INDIANS".

Page 1291, line 13, strike "that".

Page 1291, after line 16, insert the following:

(c) ADMINISTRATION.—The Secretary of Labor shall administer this part and, for such purposes, the Secretary is authorized to prescribe such rules and regulations as may be necessary and appropriate.

Page 1291, line 20, strike "Except as provided in subsection (b), each" and insert "Each".

Page 1292, line 4, strike "Such" and insert "Except as provided in subsection (b), such".

Page 1292, line 8, strike "(a)" and insert "(a)(2)".

Page 1292, line 18, strike "subpart" and insert "part".

Page 1293, line 6, insert "services provided by" after "access to".

Page 1293, line 12, insert "with respect to one or more types of illnesses or injuries in a geographic area" after "providers,".

Page 1303, line 22, strike "Secretaries" and insert "Secretary".

Page 1304, line 15, insert "on its work" after "report".

Page 1306, line 5, strike "Section 1(b)(2)" and insert "Subsection (b)(2) of the first section."

Page 1306, line 24, strike "January 1, 1998" and insert "the date under section 10501 that such subtitles apply to regional alliances, and regional alliance health plans, in the State".

TITLE XI CHANGES

Page 1307, line 11, strike "the Health Security" and insert "this".

Page 1307, line 18, insert "with respect to" after "title."

Page 1309, line 17, strike "civil money penalties" and insert "a civil money penalty".

Page 1309, line 21, strike "subparagraph" and insert "subsection".

Page 1312, line 12, strike "the date of introduction of the Health Security Act" and insert "October 27, 1993,".

Page 1313, line 22, strike "to".

Page 1314, line 2, strike "and duration" and insert ", and duration of coverage under the plan".

Page 1318, line 11, strike "such" and insert "an".

Page 1321, line 20, strike "such" and insert "health insurance plan".

Page 1325, line 20, insert "(specified by the Secretary of Labor)" after "period".

Page 1328, line 16, strike "(c)" and insert "(e)".

• Page 1328, line 24, before the period insert the following: ", except that the total balance of such Treasury advances at any time shall not exceed $1,500,000,000".

Page 1330, line 19, strike "labor" and insert "Labor".

Page 1333, line 5, strike "medical-" and insert "medical".

Page 1335, line 6, strike "1995" and insert "1996".

Page 1335, line 9, strike "such" and insert "Such".

Page 1335, line 10, strike "as defined in paragraph (5)(B)(ii))" and insert "described in paragraph (5)(B)(ii)".

TITLE XII CHANGES

Strike title XII.

[The substance of this title has been moved to page 1092, after line 8.]

Mr. ROCKEFELLER. Mr. President, with great pride, today I become an original cosponsor of President Clinton's Health Care Security Act of 1993—to join him and my colleagues in putting forward legislation that when enacted will guarantee every American health care that can never be taken away. And I congratulate the First Lady and her dedicated staff for leading the intense and crucial effort that has brought us to this historic point.

I mean it when I say that it would be impossible for me to express the enormous hope that I have as I submit my name as a cosponsor of this legislation. We are making history in this chamber today. We are all committing ourselves to help enact health care reform that delivers on the President's rock-solid, nonnegotiable principles of health security, quality, choice, simplicity, savings, and responsibility. Americans deserve no less. It is our responsibility to take this body of work that the President has presented and fashion it into a law that will truly, systemically, reform our health care system—guaranteeing universal access and coverage for all, and the cost containment our system needs.

As we join together to introduce this legislation, it seems appropriate to reflect on what has made systemic health care reform a burning passion for me. Thirty years ago, as a VISTA worker, I went to Emmons, WV—a small coal camp town deep in the West Virginia hills. Like so many West Virginians, the families there worked hard sunup to sundown, just to scratch out a living.

My time in Emmons was more rewarding and productive than I can ever convey. We built a library. We pulled down an abandoned school house in another town, brought the boards back one by one to Emmons, and built a community center. We started a preschool. We won a hard fight just to get the school bus to stop at Emmons.

But for all we accomplished, there were things that could not be changed. One was that for all their hard work and strong values, the people of Emmons could never, ever feel secure about their health. There were no guarantees that if they really needed medical care, they could afford it.

That struck me as being just plain wrong. In a country as great as ours—with the prosperity and the opportunity we have faith in—people can work hard their whole lives, pay their fair share of taxes, play by the rules, and still not have peace of mind about their health. That was true then, it is true today.

After VISTA, and because of my time in Emmons, I decided to make public service my career and West Virginia my home. I served in the legislature, and was Governor for two terms. Throughout, I struggled with the health care needs of West Virginians.

With rural hospitals that aren't paid enough to care for the people that need them. With the cruelty of finding out that losing one's job also means losing one's health insurance. With parents who have told me what it's like to choose between taking a sick child to the doctor or putting food on the table. With families who are ruined when a grandparent gets Alzheimer's, and they find out this country still doesn't have a decent long-term care policy.

That's why I decided, after coming to the Senate, that I would focus on health care issues. Soon, I found myself chairing something called the Pepper Commission. We took our charge very seriously, and produced a bold blueprint for health reform and long-term care. We helped to put the health care issue where it belongs on the public agenda—front and center.

Americans are now demanding action. Our health care system is broken, and it is long past the time to insist on a repair job. Health care consumes nearly one-fifth of our economy, yet remains a wasteful, insecure, and bloated machine that just plain doesn't work.

Our prosperity, our standard of living, our job security, our optimism for the future have been worn away by paperwork, fraud, waste, loopholes, fine print, and a torrent of cost increases that threaten to wash away every family, business, and budget we build.

We spend $1 trillion on health care today—more than on health care than on defense, education, and Social Security pensions combined—and it will be $2 trillion by 2000. Yet we have over 2,000,000 Americans losing their health insurance each month. And of those, one million will go without insurance for half-a-year and 100,000 will never get their insurance back. And let me tell you the truly shocking part of all this—the vast majority of the people who lose their health care coverage are middle-class Americans who pay premiums, work hard, play by the rules.

One West Virginian, a man who works in a small upholstery factory, put it all into clear perspective when he told me he never expected to pay nothing for health care, but he sure didn't expect it to be his biggest expense, exceeding his mortgage and car payments. "I can't enjoy my good health," he said to me, "for fear of bad health."

And looking beyond each family's fears, we as a Nation are being weighed down by out-of-control health costs. Look at our auto industry—General Motors, Food, and Chrysler all pay far more in health costs for their workers than their Japanese counterparts, in some cases over 300 percent more. The sticker-prices on American cars account more for autoworkers' health care costs than for the steel in the cars. I steadfastly believe that if you are antihealth care reform, you are anticompetitiveness, antijobs, and antigrowth.

That's why I will be fighting with every ounce of my energy to help enact the President's health care reform plan.

Because it will offer people like the West Virginia upholstery worker, the people that my colleagues and I are sworn to represent, our families and our friends, and every single American some basic, valuable things, again: security, choice, savings, simplicity, quality, and responsibility.

The principles of President Clinton's health care plan will remain, no matter what kind of legislative compromises on mechanics or details result down the road, they will be the bottom line that every American will wind up with:

Security—of health coverage you can never lose, of having benefits that will never be taken away. No redlining, no arbitrary cancellations, no getting dumped for a preexisting condition, or unemployment, or any other reason.

Choice—to go to the doctors we choose. Most consumer choices will increase under this plan.

Savings—a system that ends health care hyperinflation and puts consumers in the health care driver's seat. Instead of each household or one small business looking for health coverage one at a time, they'll be part of an alliance that give you real clout. The message sent to insurance companies is, "If you want our business, you'll have to earn it.

Simplicity—elimination of the red-tape that drive us all—doctors, nurses, and patients—absolutely crazy. Every American will have a computerized health care I.D. card that, when presented to a doctor or hospital, will offer entire medical histories and profiles and after treatment will allow for direct electronic billing to a health insurer. No forms. No paperwork. No endless phone calls and bureaucracy.

Quality—consumers will be given quality "report cards" and all plans will have to meet national quality standards; and

Responsibility—regardless of what the final plan is, those who do pay for health care will no longer pay for those who do not.

The President's plan is not perfect. There are some things that I would like, and others, too, I'm sure, to see strengthened, or modified. But that's understandable. This bill is still our master blueprint.

Understand that this is the most intricate, complicated subject. It is far and away the most difficult subject that I have worked on in my lifetime as a public servant, as a state representative, as a Governor, as a representative of the people of West Virginia in the United States Congress. It affects in some way more than one-fifth of our entire economy. It asks people to learn to do business a new way or handle health care in a new way—and change is never easy.

It is understandable that there are provisions in this legislation that I, or my colleagues, will want to see changed, rearranged, added, or deleted. That's to be expected. But the test should be whether or not this plan is a vast, vast improvement over what we have today. The answer to that is unquestionably yes.

There are so many provisions in this legislation that are critical to me. Many are an outgrowth of the work that I have done as Chairman of the Medicare and Long Term Care Subcommittee on the Senate Finance Committee. Many are based on what I've learned from the experiences, and the needs, of my own State of West Virginia.

For example, the President's reforms of our health professional workforce and the restructuring of graduate medical education training to provide more primary care practitioners are based, in large part, on legislation that I introduced earlier in this year, my Primary Care Workforce Reform Act. I am heartened by the President's commitment to improve the production and distribution of primary care practitioners, and to take responsibility for seeing to it that providers are practicing where we need them most. I am very much looking forward to doing more on this front, to correct the serious maldistribution of providers that we have today, and to stop the oversupply of physicians that is so detrimental to our broader cost containment efforts. States like West Virginia know the hurdles that we face in our current system to insuring that care is available to those who need it. Having an appropriately trained health care workforce, one that emphasizes primary care, is critical to making this whole reform initiative work on the ground. Incentives need to be changed in this area, and in enhancing the attractiveness of primary care in general. The President's bill is a good first step.

As Chairman of the Medicare and Long Term Care Subcommittee, I have a special obligation to insure that reform improves the health care available to older Americans. The President's prescription drug benefit, and the important new home and community based care program will go a long way to providing the medicine and the kind of care that the people who rely on Medicare need most, along with disabled Americans. I will, of course, be paying special attention to these areas as they move through the legislative process. How the Medicare program and health care reform intersect is something we need to carefully understand so that we are sure that we are doing all we can to promote the health of our senior citizens, and protect the fundamental mission of the Medicare program.

As the one of the leaders in the Senate of liability reform, the malpractice

and tort reform provisions that the President proposes are very important to me. He has worked hard to deliver on his promise to include meaningful tort reform in his health care reform proposal. Now it is up to Congress to review it, and see if there are areas that should be improved upon. I intend to work with all my colleagues to explore that question.

There are many other parts of this legislation that I care deeply about. Hundreds of questions will need to be answered to the satisfaction of those of us who are responsible for voting on the final details. What are the appropriate roles of the States and the Federal Government in assuring quality, affordable health care is available to all? How do we make sure that this system is implemented in a way that universal access to health care is available just as soon as possible? How do we insure that alliances build on the efficiencies in the private market, and have the necessary accountability so that they serve the best interests of all citizens? Are the discounts adequate to insure that we are providing the help that many small businesses and low income families will need to participate in this new system? There are so many questions and it will be our duty to work through the answers to be sure that the final product achieves our shared goals. Now we have a text that we can turn to. The health care reform legislative process is officially underway.

I have no delusions. It will take a great deal of courage, and continued leadership from our President, and those of us in Congress, to change our ways. We will have to stop and remember at every turn that the scariest results of all are if we do nothing or fail to achieve the fundamental goals of reform. We should have the courage to act, and fear the consequences of throwing up our hands, and allowing this country to be practically alone in being unable to find a way to guarantee the security of health care for all of our citizens.

This Clinton health care reform plan is the only plan presented in this detail and with this care. It is the only plan to be submitted that guarantees every single American a comprehensive set of benefits that can never be taken away in way that can engender the support that we need.

I pledge to dedicate my heart and soul in the days, and weeks and months ahead, to helping see to it that this legislation passes before the historic 103d Congress completes its work. There is no more important priority for America, or this Senator.

Mr. DODD. Mr. President, I rise today as a proud cosponsor of the Health Security Act, which was formally introduced today.

I have said before and I will repeat again today—this bill has the potential to be one of the most important pieces of legislation considered by Congress in the 20th century. Its effect, I believe, will be as far reaching and significant as the Social Security legislation of the 1930's and the civil rights legislation of the 1960's. Like these other measures, it is based on the principles for which this Nation stands—dignity, security, and justice.

The Health Security Act will provide a new and desperately needed guarantee for all Americans. It will guarantee that regardless of your job, your health, your family, or where you live—you will have the security of health care coverage.

It has become clear that there is an increasingly strong consensus for health care reform in this country. I am not suggesting that everyone agrees on what form this change should take. There is certainly a great deal of disagreement on this point. But nearly everyone agrees that change is imperative.

I'd like to share with you the story of a woman that I believe illustrates why we so desperately need comprehensive health care reform in the United States. Earlier this week, at a hearing I chaired on maternal and child health care needs, Lynn Morrison of Stone Mountain, GA, told how our present health care system failed to support her and her family when she was in need.

Ms. Morrison learned she was pregnant shortly after she had changed jobs. Her new job did not offer health insurance, but allowed her to be closer to her first daughter's school. She tried to secure coverage through her husband's policy, but coverage was denied because her pregnancy was considered a pre-existing condition.

Lynn Morrison, crying as she testified, said she had wanted to get her baby off to a healthy start. She was worried because she was 32 years old and feared that the pregnancy might be complicated. She tried numerous ways to get care; she even got a temporary Medicaid card, but no doctors would see her.

Eventually, in her fifth month of pregnancy, she found a package prenatal plan for uninsured women at significant cost to her and her family. Although it was a great relief to have secured this care, she had needed it earlier. As she had feared, her pregnancy was complicated: She went into premature labor twice and was hospitalized.

As stories like this one demonstrate, the case for reform is clear and compelling. We simply cannot continue as we are now. Our health care system is badly broken. It prevents women like Lynn Morrison from receiving prenatal care that they desperately need.

The system labels pregnancy a preexisting condition and denies women prenatal care that we all know would save dollars and prevent health problems down the road. This system works against our Nation's families, and it leaves too many people without coverage. We must fix it.

The current session of Congress began with good news for our Nation's families when we passed the Family and Medical Leave Act, and the President signed it into law. I hope when this Congress comes to an end, we will have more good news for the Nation's families—comprehensive reform that meets the needs of all Americans.

I see the President's plan as the best hope for achieving this end, and that is why I decided to become an original cosponsor of the Health Security Act.

I agree with the six critical principles on which the President's proposal is based: Security, savings, quality, choice, simplicity, and responsibility. Other plans fall short on one or more of these standards, and each is critical for true reform.

More than any other element, I believe that we must ensure that coverage is universal. All Americans must receive the health care that they need when they need it. We must ensure that a pregnant woman will not have to wait until her fifth month of pregnancy to receive prenatal care. Some proposals on the table do not include this assurance, and I find them unacceptable.

I am an enthusiastic participant in this effort because of the tone that the debate has taken so far. I firmly believe that this should not be a partisan cause. The President and First Lady know this and have demonstrated a sincere willingness to listen to criticism and suggestions and take them into account. We as Members of Congress also know this, and the American people know this. The issues at stake are simply too serious to be held hostage by partisan bickering.

Republicans and Democrats, doctors and patients, small businesses and large corporations—all agree that reform is imperative. I hope we will seize this opportunity, form a broad-based consensus about the shape of reform, and give the American people what they are demanding: A health care system that works for everyone without runaway costs.

To be sure, we will not agree on every aspect of this proposal. There are certainly parts of the President's plan about which I have reservations about. I will watch these provisions carefully, and I may try to modify them as we consider the bill. I am sure that the same is true for the other cosponsors of the bill.

But we cannot allow specific objections to small parts of the plan to derail the entire effort. We must see the introduction of the Health Security Act as the beginning of the process, not its end. In the months ahead, we will

be working together to shape this legislation to make sure that we create the best plan possible.

As we begin formal consideration of the bill, I will continue to focus specifically on preventive care and the unique needs of pregnant women and children, as I have in the past. We can no longer afford to neglect prenatal care or allow policies to define pregnancy as a preexisting condition. We can no longer afford to neglect child immunizations. We can no longer accept the risk of neglecting the health of adolescents. I want to work toward a reform plan that provides solid benefits in these areas and contains provisions to make sure the benefits reach those who need them.

We must act now to provide the American people with the health care system they need and the health care system they deserve. I urge my colleagues to support the Health Security Act.

Mr. BAUCUS. Mr. President, I am pleased to cosponsor the Health Security Act, President Clinton's proposal to control health care costs and provide health care security to all Americans.

This proposal could not come at a more critical time. Americans are demanding change. We are all fed up with a system that is too costly, too inefficient, and—in many cases—too unfair.

HEALTH CRISIS IN MONTANA

Even in my home State of Montana, with it's small, rural population, health costs have exploded. Skyrocketing health costs are hurting our economy, depleting our State budget, lowering our wages, and forcing over a fifth of our population to go without health insurance.

The statistics are astounding. Over the last decade, health costs in Montana rose almost 400 percent faster than wages. Montana families are spending over $3,000 a year on health care, yet their average income is among the lowest in the country at $28,000 for a family of four. Unless we pass comprehensive reform, Montana families can expect to pay over $7,000 by the year 2000.

Business spending on health care has also skyrocketed, rising by over 280 percent over the last decade. Without health reform, businesses in Montana can expect to spend over $1.2 trillion on health care by the year 2000.

HEALTH REFORM WILL BENEFIT MONTANA

The costs of inaction are too high. While we will debate the relative costs and benefits of a number of features of this proposal, let's not lose sight of one threshold test: does it represent a meaningful improvement over the present system? In most instances, I believe the answer to the question is a resounding "yes."

The administration's proposal will address the fundamental problems in our health care system: access and cost. At long last, the United States will join the ranks of every other western industrialized nation by providing universal coverage at a reasonable price.

SMALL BUSINESS

I am still concerned about how this proposal will impact small businesses. Most Montana employers have fewer than 100 employees. And only half of the businesses with fewer than 50 employees offer health insurance.

In 1989, I served on the Pepper Commission, which was charged with developing a health reform plan that would guarantee universal coverage. The Commission recommended an employer mandate. I opposed the Commission's recommendations because I felt they posed an unfair burden to small business.

I say this not to criticize the Pepper Commission, which was so ably chaired by my friend and colleague, Senator ROCKEFELLER. But it is important to note a key distinction between the Clinton plan and the Pepper Commission plan. The Clinton plan has strong cost controls which would prevent large premium increases. It also caps how much employers must spend on health insurance, with much lower caps for small businesses.

The President clearly wants to make insurance affordable for small businesses. Make no mistake about it, this plan contains many pro-businesses provisions.

Most of the small businesses I know tell me they want to offer insurance, but simply can't afford to spend 15 to 20 percent of their payroll on premiums. The President's plan would cap how much low wage small businesses would have to spend on health care from as low as 3.5 percent of payroll to 7.9 percent of payroll. This is just a fraction of what it would cost these businesses to purchase insurance right now.

I also applaud the provision that would allow the self-employed to deduct 100 percent of the cost of their health insurance. Large businesses have been able to do this for a long time. It is about time that our Tax Code treat small businesses fairly.

INCREASE ACCESS FOR RURAL COMMUNITIES

I am particularly pleased with the rural health care included in this proposal. Almost half of our 56 counties have no physician who will deliver a baby and 8 of our counties have no physician at all.

Montanans know that giving people in rural communities a health insurance card does not guarantee access to health care. Even with insurance, many rural communities would still have no doctors or nurses to provide care.

The President's proposal would seriously address our provider shortages. Provisions in this package would offer rural health providers tax credits and bonuses; link rural providers with other health care institutions by expanding grants for telecommunications; and invest in new medical equipment for rural areas.

These provisions would definitely increase access to health care in rural communities.

CONCLUSION

But, of course, much work lies ahead. Clearly, there will be many changes to this plan before it is ultimately enacted into law. I am supportive of the Health Security Act, but I believe the plan can be improved. As I work to restructure our health care system, I will fight for a comprehensive, equitable plan which gives Americans meaningful choices and reduces waste.

Through all of this, I hope we can keep the spirit of bipartisanship and cooperation alive. There are no simple or quick fix solutions. As complex as these problems are, I am confident we can find sound answers if we all work together.

Mr. DASCHLE. Mr. President, over 50 years ago Franklin Delano Roosevelt painted for the American public a picture of a country where senior citizens were paying a terrible price for our Nation's failure to secure them in their old age.

His paint brush was the fireside chat, his canvass was our grandparents' conscience, and the picture they finished together was Social Security.

That picture was completed over 50 years ago, and not since then have we worked together as a nation to secure a new right of citizenship in our land.

We have now reached a crossroads in our country, and I believe it is time for another great advance, this time to tackle the problems that are so deeply rooted in our health care system. Fortunately, we have a President and a First Lady who share this belief. They understand that, as in 1933, we have fallen behind the other industrialized nations at a great cost.

They recognize that something is terribly wrong when we stand alone with South Africa as the only two advanced nations in the world that fail to secure its citizens against disease, and condemn families to a lifetime of poverty when their children fall ill. They have pointed out that nowhere else is fear of losing health insurance permitted to trap citizens in jobs or prevent them from establishing their own small business. They believe, as Roosevelt did a half century ago, that America can do better, and wants to do better.

We do not lack the will. We have lacked the leadership.

Now we have the leaders, and it is time to rise to the challenge.

With the introduction today of the Health Security Act, Bill and Hillary Clinton have given the Congress and the people their vision for an America where all citizens have the security that their health care can never be

taken away. An America where one's age, health status, or place of employment does not dictate one's access to care. An America where everyone has the peace-of-mind that they will be able to care for their young children or their ailing parents when and if it becomes necessary.

It is up to us now to work together in the Congress and as a nation to secure this vision for our Nation.

CLINTON'S PLAN VERSUS THE ALTERNATIVES

Over the next year we will carefully study the plan the President has proposed, as well we should. We will debate its details and improve upon the original proposal. This is a healthy and necessary process.

But as we engage in this debate and refinement of the President's plan, let us be sure we hold on to the six major principles upon which his legislation was built: Security, simplicity, savings, quality, choice, and responsibility.

It is particularly important that we retain these principles as we consider other health proposals that are held up as viable alternatives to the Health Security Act. When I study these plans, I am too often disappointed that the rhetoric surrounding them does not match the reality.

The plans proposed by Senator CHAFEE, Senator BREAUX, Senator NICKLES and Senator GRAMM, and the measures introduced in the House by Representative COOPER and Representative MICHEL, all represent serious efforts, and I welcome the sponsors' participation in the debate. But I also must express serious reservations about the ability of these measures to fulfill all of the goals that we have established for health reform.

The authors may bill their proposals as the "compromise, middle-of-the-road" alternatives. They may talk about making significant improvements without calling for the comprehensive reforms of the President's plan.

But when evaluated against the President's six major principles, none of them holds up.

For example, neither the Cooper bill nor Gramm bill provides health security for all Americans—security that citizens of every other nation take for granted; security that our citizens want and deserve. Of the alternatives to the President's plan, only Senator CHAFEE's plan makes this a priority.

Equally distressing, none guarantee that skyrocketing health costs will be reined in. They all fail to assure businesses and individuals that their premiums will be affordable, if competition fails to contain costs.

These are two of the most important goals of health reform, and I believe these proposals, for the most part, fall short on both of these counts.

I also find troubling the failure of these plans to define a comprehensive benefits package to which all Americans would be entitled, the failure to preserve the individual's right to choose his or her own doctor or other health provider, and the omission of a plan for expanding access to long-term care. On the other hand, the President's plan tackles each of these matters.

CONCLUSION

Last November, voters demanded change. They demanded action on the problems that plague us. The health care plan outlined by the President is the kind of comprehensive reform of the system that Americans want and need.

We must pass a reform plan soon, before our problems become even more intractable. And if we do, we will do so over the objections of the special interests who want to maintain the status quo.

We must set this Nation on the road to a healthy future, where peace-of-mind is no longer a luxury only the wealthiest can afford.

The President has painted a picture of a better system—now it is up to us to find the will to make this picture a reality.

Mr. RIEGLE. Mr. President, reforming this country's health care system is one of the greatest challenges this Congress has faced in recent history. Although a number of us have recognized the growing problem of rising health care costs for many in this country, it has taken the national leadership and vision that the President and Mrs. Clinton have given and will continue, to address the complexity of the problem and overcome the entrenched special interests.

The rising cost of private health insurance is creating tremendous problems for many families and business's in this country. Too many people are losing their coverage, or can't afford to cover all the members of their family. Many are paying higher copayments and deductibles. And many businesses are finding it more and more difficult to provide insurance for their employees, even though most would like to do so.

Today, nearly 40 million Americans have no health insurance at all. That includes close to 1,000,000 in Michigan alone and as many as 300,000 children. More citizens are losing coverage each day. All of us know of a friend or family member who has experienced a problem in this area. We need national health care reform to provide every citizen the security of health care coverage.

I have been working to reform the health care system for over a decade. I first introduced a bill in 1982. Now, there is a growing consensus that a new health care plan must be hammered-out and adopted—just as Social Security was, and Medicare later. Because of my strong belief that reform is needed, I sought to become and was made Chairman of the Finance Subcommittee on Health for Families and the Uninsured. To help develop a consensus on health care reform I have held close to 40 public hearings and forums across Michigan and in Washington on health care to gather all the facts, consider our options, and build public support for a comprehensive overhaul of our system. And I will continue to solicit the views of Michigan citizens to make sure that the final plan addresses the unique health care needs of Michigan.

The Administration's proposal will make sure that all Americans have the peace of mind that comes with health insurance coverage and guaranteed access to high quality care, regardless of where they work or whether they lose or change their jobs. The proposal also contains a comprehensive plan to control health care costs. I am particularly pleased that the plan contains provisions to help out our Nation's early retirees who are increasingly finding their coverage reduced. The high costs of retiree health placed on certain businesses, like American auto companies, put them at a severe disadvantage with foreign competitors.

Mr. President, I have agreed to cosponsor the President's plan because I believe it is based on the right principles and it will provide an excellent framework for our debate. Before this plan is enacted, however, it will be scrutinized and evaluated, and changes will be made. For example, I am especially concerned that all children in this country receive coverage as soon as possible and would like to be able to devise a way for them to be phased in first.

As you know Mr. President, I have been telling this Senate about a person in Michigan who has faced problems with our present health care system every week since last August. This week I talked abut Christopher Arnold, who is only 5 years old but suffers from immune deficiency disease. His illness has been financial devastating for his family, and his father is unable to even think about changing jobs to increase the family's income because Christopher would lose the insurance coverage that he has due to his pre-existing condition. One of the most important ways that I will judge any health care reform plan is by how it helps the Arnolds and other people like them.

Although the introduction of this bill has been long-awaited, the process of ironing out the details and developing consensus is just beginning. It will be a long and difficult process, and we can't hope to achieve it without broad bipartisan support.

Reforming our health care system is a complex issue, but it can and must be solved. The plan that the administration has proposed is the most comprehensive plan that has been introduced. It establishes the right goals

and the right sense of urgency. It gives us a chance to finally step up to this problem and solve it.

Our goal is to get a comprehensive health care reform program enacted by the end of this Congress, which would be about October 1 of next year. As Chairman of the Finance Subcommittee on Health, I will invest every ounce of energy that I have to work with my Republican and Democratic colleagues to get this done.

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By Mr. MURKOWSKI:

S. 1758. A bill to establish a Stewardship Endowment Fund to fund activities for the restoration of injured natural resources in Alaska resulting from the T/V EXXON VALDEZ oil spill, and for other purposes; to the Committee on Environment and Public Works.

EXXON VALDEZ OIL SPILL STEWARDSHIP ENDOWMENT

Mr. MURKOWSKI. Mr. President, I rise to introduce a bill to create a stewardship endowment to provide for part of the long term stewardship costs associated with recovery of damaged resources and services of the Exxon Valdez oil spill (EVOS) area by encouraging the conservation of funds to fund long term studies.

Specifically, the legislation:

Establishes in the Treasury of the United States an endowment fund into which the Trustees may choose to transfer any portion of the civil settlement funds; amends Title XXX of the Energy Policy Act of 1992; Allows the Secretary, with the unanimous consent of the Trustees, to invest a portion of the corpus and income of the Endowment Fund in such a way to generate sufficient income to carry out the purposes of restoration; and allows, upon the request of the Trustees, the Secretary to transfer income earned to the Trustees to spend on restoration.

On March 24, 1989, the T/V Exxon Valdez ran aground on Bligh Reef in Prince William Sound spilling 11 million gallons of North Slope crude oil. This was the largest oil spill in United States history. The Exxon Valdez oil spill contaminated thousands of miles of Alaska's coastline. It killed birds, mammals, and fish, and damaged other resources.

On October 8, 1991, the U.S. District Court approved an agreement that settled the claims of the United States and the State of Alaska against Exxon for various criminal violations and for recovery of civil damages resulting from the oil spill. In the civil settlement, Exxon agreed to pay the State of Alaska $900 million over a period to 10 years to restore resources and human uses injured by the spill.

The spending guidelines for the civil settlement funds are set forth in a Memorandum of Agreement and Consent Decree (MOA).

The definition of "restore" or "restoration" under the MOA is broad and means: any action, in addition to response and cleanup activities required or authorized by state or Federal law, which endeavors to restore to their prespill condition any natural resource injured, lost, or destroyed as a result of the oil spill and the services provided by that resource or which replaces or substitutes for the injured, lost or destroyed resource and affected services. Restoration includes all phases of injury assessment, restoration, replacement, and enhancement of natural resources, and acquisition of equivalent resources and services."

The settlement defines natural resources as the land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to or managed by the State or Federal governments. Examples of natural resources are birds, fish, mammals, subtidal plants and animals, and archaeological resources.

In addition to restoring natural resources, funds may be used to restore reduced or lost services (human uses) provided by injured natural resources. For example, subsistence, commercial fishing, and recreation including sport fishing, sport hunting, camping, tourism, and boating are services that were damaged by injuries to fish and wildlife.

This Trustee Council consists of 6 Federal and State trustees. The State of Alaska trustees include the Commissioner of the Department of Environmental Conservation, the Commissioner of the Department of Fish and Game, and the Alaska Attorney General. The Federal Trustees include their lead representatives in Alaska of the following three agencies, the U.S. Department of the Interior, the U.S. Department of Agriculture, and the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Placing the funds in an endowment so that they can grow even larger for future use for these stated purposes is consistent with this MOA requirement and, in fact, may be the best way to ensure that we can meet this purpose more effectively by ensuring thoughtful decisions with regards to the use of the funds and ensuring the use of the funds much farther into the future.

The $900 million civil settlement requires Exxon to deposit funds each year beginning December 1991 and ending September 2001. The State of Alaska has already received $340 million and will receive $70 million a year through the year 2001. Creating an endowment allows us to fund restoration activities indefinitely—after Exxon payments end in 2001.

The endowment would work in the following manner. The Trustee Council of the Exxon Valdez oil spill settlement funds can decide how much of these funds they want to place into the endowment.

The trustees can then use the annual interest proceeds from the endowment to fund restoration activities, such as scientific studies and wildlife restorations.

The Trustee Council can decide how they want to invest the principal or the funds in the endowment, by placing the principal into a federally insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other instruments and securities.

Trustees could, by unanimous consent, remove funds.

The following reasons further support an endowment.

In the summary of public comment on alternatives of the Draft Exxon Valdez Oil Spill Restoration Plan, approximately two-thirds of 699 responses favored establishing an endowment or savings account of some kind. Approximately two-thirds of all people who favored an endowment thought the earnings should be used for monitoring and research.

The recent General Accounting Office report was critical of the council's initial spending of settlement money on administrative costs and reimbursements to Exxon and government agencies for spill cleanup expenses.

The enormity of the settlement makes an endowment a good option. As of September 1, 1993, Exxon has paid the government $340 million ($90 million in 1991, $150 million in 1992, and $100 million in 1993); Exxon will pay the governments $70 million yearly until 2001. Of the civil settlement funds, about $107.5 million has been used to reimburse Federal and state agencies for past spill-related work, about $40 million to Exxon for certain agreed upon cleanup work, about $19 million for the 1992 work plan; and about $35 million for the 1993 work plan.

The purpose of creating an endowment is to encourage the conservation of settlement funds for needed long term scientific research and ecosystem studies.

Catastrophic failures of the multimillion dollar Prince William Sound herring and pink salmon fisheries this year raise serious questions about the effectiveness of restoration and enhancement activities resulting from the Exxon settlement funds. Scientists have been unable to explain the disastrous disappearance of herring and pink salmon from the Sound in 1993; they lack an understanding of the Sound's natural cycles, of water temperatures and food chains.

Moreover, the Yukon drainage fishery has steadily declined from a healthy subsistence and commercial opportunity to total closure today. No one knows "why"—what caused the run failure in the Yukon drainage? Funds are needed for studies since, to

this date, only ineffective and inadequate data and research programs exist.

It is important to note that fishing is Alaska's leading employer and second leading private sector industry in terms of gross benefits to the state, behind only the petroleum industry. For all of these reasons, I have introduced this bill to encourage the conservation of the Exxon Valdez Settlement Funds to provide for the maintenance of restoration and enhancement activities for the Prince William Sound.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1758

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Stewardship Endowment Fund Act of 1993".

**SEC. 2. FINDINGS, PURPOSE, AND INTENT OF CONGRESS.**

(a) FINDINGS.—Congress finds that—

(1) for national security purposes, the United States requires steady and secure sources of oil as well as other sources of energy;

(2) while protecting the oil-producing capabilities of the United States is important, it is also important to protect the environment from which the oil is drawn;

(3) following the discharge of oil from the T/V EXXON VALDEZ on March 23 and 24, 1989, when the vessel went aground on Bligh Reef in Prince William Sound, Alaska, a settlement was reached;

(4) under the terms of the Agreement and Consent Decree (as described in section 207 of Public Law 102-229) that the Federal Government and the State of Alaska entered into with the Exxon Corporation, Exxon will pay a total sum of $900,000,000 over a period of 10 years for damages and environmental restoration to the Federal Government and the State of Alaska (referred to in this section as "settlement funds");

(5) the placement of a portion of the settlement funds in a Stewardship Endowment Fund would create a stream of income over and above the initial settlement funds that could be used to meet the needs of environmental restoration over a period that extends beyond the 10-year period specified in paragraph (4);

(6)(A) catastrophic failures with respect to salmon fisheries in Prince William Sound, and other biological events, indicate an urgent need to carry out long-term multidisciplinary research efforts to enable the full implementation of an effective restoration and enhancement program; and

(B) the research should fully examine all possible causes of, and solutions to, the problems described in subparagraph (A);

(7) similar failures with respect to other salmon fisheries and changes in the populations and ratios of other species further indicate that a broad approach to scientific investigation may be necessary to determine whether events in Prince William Sound concerning salmon fisheries may be caused by, or affected by, events in other geographic areas;

(8) a stable source of research funding is needed in order to provide for long-term research necessary for the successful restoration and enhancement of Prince William Sound; and

(9) the Endowment Fund referred to in paragraph (5) would facilitate the administration of the settlement funds by the Trustees designated by the President and the Governor of the State of Alaska to act, for the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as trustees of natural resources injured, lost, or destroyed as a result of the discharge of oil from the T/V EXXON VALDEZ;

(b) PURPOSE.—It is the purpose of this Act to establish in the Treasury of the United States a Stewardship Endowment Fund in order to create a stream of income that will carry out the purposes specified in the Memorandum of Agreement and Consent Decree that the United States and the State of Alaska entered into on August 28, 1991, for a period that extends beyond the payment period referred to in subsection (a)(4).

(c) INTENT OF CONGRESS.—It is intent of Congress that the conservative use of settlement funds and earnings from the settlement funds should be encouraged in order to provide for the maintenance of restoration and enhancement activities for Prince William Sound (including providing for long-term scientific studies and ecosystem research necessary to support restoration and enhancement activities).

**SEC. 3. STEWARDSHIP ENDOWMENT FUND.**

Title XXX of the Energy Policy Act of 1992 (Public Law 102-486) is amended by adding at the end the following new section:

**"SEC. 3022. STEWARDSHIP ENDOWMENT FUND.**

"(a) DEFINITIONS.—As used in this section:

"(1) AGREEMENT AND CONSENT DECREE.—The term 'Agreement and Consent Decree' means the Agreement and Consent Decree described in section 207 of Public Law 102-229 (105 Stat. 1715) and approved by the United States District Court for the District of Alaska on October 8, 1991.

"(2) ENDOWMENT FUND.—The term 'Endowment Fund' means the Stewardship Endowment Fund established pursuant to subsection (b).

"(3) NATURAL RESOURCES.—The term 'natural resources' has the meaning given the term in the Agreement and Consent Decree.

"(4) OIL SPILL.—The term 'Oil Spill' means the grounding of the T/V EXXON VALDEZ on Bligh Reef in Prince William Sound, Alaska, on March 23 and 24, 1989, and the resulting oil spill.

"(5) RESTORATION.—

"(A) IN GENERAL.—The term 'restoration' means any action, in addition to response and cleanup activities required or authorized by State or Federal law, that endeavors to—

"(i) restore—

"(I) a natural resource injured, lost, or destroyed as a result of the Oil Spill to the prespill condition; and

"(II) the services provided by the resource; or

"(ii) replace or substitute for the injured, lost, or destroyed resources and affected services.

"(B) PHASES OF INJURY INCLUDED.—The term includes all phases of injury assessment, restoration, replacement, and enhancement of natural resources, and the acquisition of equivalent resources and services.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(7) SETTLEMENT FUNDS.—The term 'settlement funds' means the settlement funds established pursuant to the Agreement and Consent Decree.

"(8) TRUSTEES.—The term 'Trustees' means the officials designated by the President and the Governor of the State of Alaska to act, for the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as trustees of natural resources injured, lost, or destroyed as a result of the Oil Spill.

"(b) STEWARDSHIP ENDOWMENT FUND.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, there is established in the Treasury of the United States a Stewardship Endowment Fund to facilitate the restoration of natural resources in Alaska injured as a result of the Oil Spill. The Fund shall consist of such sums as are deposited in the Fund pursuant to paragraph (2) and any interest earned on investments of the Fund pursuant to paragraph (3).

"(2) DEPOSITS.—The Trustees may transfer from the settlement funds to the Secretary, for deposit in the Endowment Fund, a portion of the settlement funds.

"(3) INVESTMENTS.—The Secretary, with the unanimous consent of the Trustees, shall invest the corpus and income of the Endowment Fund in federally insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other instruments and securities (as determined by the Secretary, with the unanimous consent of the Trustees). The Secretary, with the concurrence of the Trustees, shall, to the maximum extent practicable, ensure that the investments made pursuant to this paragraph generate a sufficient amount of income to carry out the purposes referred to in subsection (c)(2)(B).

"(c) WITHDRAWALS AND EXPENDITURES.—

"(1) CORPUS PROHIBITION.—A withdrawal or expenditure may be made from the corpus of the Endowment Fund with the unanimous consent of the Trustees.

"(2) PERMISSIVE WITHDRAWALS.—

"(A) IN GENERAL.—On request of the Trustees, the Secretary shall transfer, at least annually, all or a portion of, the income of the Endowment Fund to the Trustees for expenditure by the Trustees in a manner consistent with subparagraph (B).

"(B) USE OF TRANSFERRED FUNDS.—Funds may be transferred to the Trustees, and expended by the Trustees, only for restoration.".

**SEC. 4. CONFORMING AMENDMENT.**

The table of contents in section 1(b) of the Energy Policy Act of 1992 (106 Stat. 2776 et seq.) is amended by adding after the item relating to section 3021 the following new item:

"Sec. 3022. Stewardship Endowment Fund.".

By Mr. BIDEN (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, Mr. SIMON, Mr. METZENBAUM, and Mr. MCCONNELL):

S. 1759. A bill to establish a national background check procedure to censure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for

persons subjected to background checks, and for other purposes; to the Committee on the Judiciary.

NATIONAL CHILD PROTECTION ACT OF 1993

Mr. BIDEN. Mr. President, I rise today to introduce legislation to confront what I believe is one of the most threatening dangers confronting the Nation—the tragedy of child abuse.

The national extent of child abuse and neglect has grown to shocking epidemic proportions—more than 2,500,000 reports of child abuse and neglect are made each year.

Many abused children are victimized in their homes, but there is a large and growing number of children being victimized outside the home.

Today, about 6 million preschool children are in a day care program for some or all of their day. By 1995, at least 8 million preschoolers will be in day care.

This rapidly growing rise in children being cared for outside their homes must be met by an expanded national effort to protect these children. This is the goal of the National Child Protection Act I introduce today.

Two years ago, the Senate Judiciary Committee convened a hearing to discuss this proposal—with television personality and child abuse activist Ms. Oprah Winfrey, and several child abuse experts. Ms. Winfrey brought to the committee a plan that was the foundation for the National Child Protection Act of 1993.

The idea behind the National Child Protection Act of 1993 is simple: We must do everything we can to detect convicted criminals before they are hired as child care workers, not after another tragedy takes place.

If enacted, this act will help build the State and national systems necessary to prevent convicted criminals from being hired as child care workers. In 1991, similar systems in just 6 States identified more than 6,200 individuals—convicted of serious criminal offenses, such as sex offenses, child abuse, violent crimes and felony drug charges—seeking jobs as child care providers.

How many children would have been put at risk if these convictions had not been detected? How many children are at risk today because they live in states without checks to identify convicted criminals? To both questions, of course, the answer is "too many."

If a comprehensive, nationwide system was in place, it is likely that it would block literally thousands of dangerous criminals from obtaining jobs in the day care field.

The key provisions of the National Child Protection Act I introduce today include: Specific timetables so that accurate, up-to-date information on child abuse convictions are available on a national basis within 3 years; $20 million in direct Federal assistance to help States improve criminal justice records; and measures to protect the rights of all—speeding access to background check information, providing appeal procedures to correct inaccuracies in these checks, and confidentiality protections for information contained in criminal records checks.

I would like to credit Senator DECONCINI, who in 1984, along with Congressman GEORGE MILLER, wrote the first law calling for national criminal background checks for child care workers. In addition, Senator SPECTER was also involved in developing such systems when he proposed the Juvenile Detention Employees Act of 1983.

The Crime Control Act of 1990—signed into law nearly 3 years ago—extended similar background check requirements for Federal day care services. Senator REID and I wrote this legislation, which is helping to protect the thousands of children served every day in Federal agencies' day care centers. Today, we must have such a system available to all.

In addition, Senator MCCONNELL has introduced background check legislation.

Senator DECONCINI, Senator SPECTER, Senator REID, Senator MCCONNELL, myself, several other Senators, and many Congressmen have devoted countless hours to this important issue. After all these efforts, we cannot delay any longer.

Today, I am pleased that I am joined in introducing the national Child Protection Act by several cosponsors to this legislation—Senators HATCH, DECONCINI, THURMOND, SIMON, GRASSLEY, HEFLIN, METZENBAUM and MCCONNELL.

Mr. President, I ask unanimous consent that a copy of the National Child Protection Act of 1993 appear in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1759

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SEC. 1. SHORT TITLE.

This Act may be cited as the "National Child Protection Act of 1993".

SEC. 2. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 3. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, a brief description of the child abuse crime or offenses for which the person has been arrested or is under indictment or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system maintained by the Federal Bureau of Investigation based on fingerprint identification

or any other method of positive identification;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

**SEC. 4. REPORTING BY THE STATES.**

(a) IN GENERAL.—An authorized criminal justice agency of a State shall report child abuse crime information to, or index child abuse crime information in, the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall, subject to the availability of appropriations—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-iine capacity basis through the national criminal background check system;

(B) establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of final case dispositions in computerized criminal history files for all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain at least 80 percent currency of final case dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve full disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

**SEC. 5. BACKGROUND CHECKS.**

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), which guidelines shall include the requirements and protections of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime; and

(ii) may not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a) be limited to the conviction or pending indictment information reasonably required to accomplish the purposes of this Act;

(F) that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge; and

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the provider who is the subject of a background check;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check;

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis a background check; and

(K) that a State or Federal provider of criminal history records, and any employee thereof, shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a criminal background check, or due to a criminal history record's being incomplete.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

**SEC. 6. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.**

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 4 of the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1995, 1996, and 1997.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 4 of this Act.

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By Mr. METZENBAUM (for himself, Mr. SIMPSON, and Mrs. BOXER):

S. 1760. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

PUBLIC BUILDINGS REFORM ACT OF 1993

Mr. METZENBAUM. Mr. President, I rise to introduce legislation which will start us on the road to reforming the Federal Government's real estate activities.

I'm greatly encouraged by the dedication of Roger Johnson, the new Administrator of the General Services Administration. I believe he is committed to bringing sanity to the Government's public buildings process. But the job is a difficult one. He will need congressional help. And that is what this legislation we are offering today will provide.

This bill is the product of much hard work by the Senate Environment and Public Works Committee's General Services Administration task force, which I chair. Senators SIMPSON and BOXER, the very able and dedicated members of the GSA task force, join me in cosponsoring it.

The purpose of this legislation is simple and straightforward—to help save tax dollars in the leasing and building of Federal office space.

Frankly, this is one area which screams out for closer scrutiny.

GSA is the principal Federal agency responsible for providing office space for millions of Federal workers. The agency controls over 7,700 buildings and more than 250 million square feet of office and storage space nationwide. In fiscal year 1994, GSA expects to spend close to $1 billion in new construction and repairs and more than $2 billion on leases.

Despite the enormous responsibilities and dedicated work force of GSA, the agency has been plagued by inherent structural and operational weaknesses and frequent changes in leadership and direction. It has also been subjected to the external pressures of other Federal client agencies, the courts, and Congress.

The General Accounting Office has criticized GSA for lacking strategic focus on for failing to manage the Government's real estate portfolio in a business-like, cost-effective manner.

Who knows how many millions—perhaps—billions of dollars have been lost because GSA failed to get the best deals in leasing and building office space to meet the housing needs of Federal workers.

But the fault does not lie solely with GSA. Effective congressional oversight of GSA has been lacking. Funding and authorization of public building projects by Congress has been conducted on a piecemeal basis, often without adequate information or detail about actual costs or how a project fits into a long-range plan for meeting the needs of the Federal work force.

The bill seeks to change all that.

It seeks to strengthen congressional oversight of GSA real estate activities by requiring GSA to provide Congress with long-range public buildings plans and better information on individual projects which require congressional authorization. This is important.

Each year, GSA presents the Public Works committees in the House and Senate with a program for construction, repairs and leases for the upcoming fiscal year. But projects within the program are not ranked according to importance or necessity. And many are based on questionable economic assumptions. Furthermore, GSA continues to submit additional prospectuses to Congress for approval throughout the year. Many such projects are not even initiated by GSA but are started at the behest of a Member of Congress. While each project's sponsor believes his or her project a high priority, this piecemeal approach makes it difficult—if not impossible—for Congress to make rational, cost-effective choices about these projects or to understand how they fit into the overall long-term real estate needs of the Federal Government.

The bill being introduced today includes a provision similar to a proposal offered last year by Senator MOYNIHAN to require GSA to submit building project plans to Congress on a 2-year cycle and to rank projects within these plans by priority. This will provide authorizers and appropriators a thoughtful, reasoned blueprint for meeting the

Government's real estate needs. Furthermore, in an effort to encourage greater strategic thinking at GSA, this biennial plan will also require GSA to provide a long-term capital asset management plan.

To further strengthen congressional oversight and ensure that GSA's real estate decisions are cost-effective, this bill will require GSA to prepare better economic analyses of individual projects and close loopholes which currently enable GSA to avoid congressional scrutiny of some projects.

Even though GSA is responsible for reviewing the suitability of judicial and other agencies' requests for space, concerns have arisen as to whether GSA performs this function with the proper scrutiny, toughness and fiscal conservatism deserved. The judiciary, for instance, has been roundly criticized for seeking to build Taj Mahals for its judges. And GSA has been roundly criticized for allowing them to be built.

This legislation will require agencies to review their space needs in a more realistic manner. It calls on GSA to work with the agencies and the courts to establish uniform standards for meeting housing needs. And, after 2 years, the bill cuts all agencies' aggregate office space budgets or related housing costs such as energy, supplies or furniture by no less than 5 percent.

The bill will accomplish a number of other objectives. It will give GSA authority to act as a clearinghouse for governmentwide real property management. It will create an ombudsman to help negotiate disputes between GSA and private contractors. And it also addresses the recommendation in the administration's National Performance Review on ending GSA's monopoly in providing office space to customer agencies. The bill requires OMB, along with GSA, to report to Congress within 1 year on the feasibility and desirability of this objective. If OMB determines it makes sense to end the monopoly, the bill directs that GSA maintain a key oversight role in determining whether other agencies are making real estate decisions which benefit taxpayers.

Mr. President, the introduction of this bill is a first step on the road to trying to fix the way this Government meets its real estate needs. I look forward to hearings on this measure next year and obtaining input from all who wish to help make the General Services Administration operate more effectively and efficiently in an effort to save tax dollars.

I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1760

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Public Buildings Reform Act of 1993".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) as of the date of enactment of this Act, the General Services Administration (referred to in this section as "GSA"), as the principal agency responsible for providing office and storage space for Federal workers, controls over 7,700 Federal Government buildings and over 253,000,000 square feet of office and storage space nationwide;

(2) in order to carry out the essential housekeeping functions of the Federal Government, for fiscal year 1994, GSA expects to spend more than—

(A) $925,000,000 to construct, alter, purchase and acquire public buildings; and

(B) $2,000,000,000 on leases for space;

(3) despite the enormous responsibilities and dedicated work force of GSA, the agency has been plagued with inherent structural weaknesses, internal management and operational problems, frequent changes in leadership and direction, and external pressures from other Federal agencies, the courts, and Congress;

(4) GSA lacks a strategic focus, does not operate in a business-like manner, and has not developed a comprehensive policy framework for managing the overall real estate portfolio of the Federal Government of approximately 400,000 buildings;

(5)(A) effective congressional oversight of GSA has been lacking; and

(B) funding and authorization of public building projects by Congress has been conducted on a piecemeal basis, often without adequate information or detail about actual costs or how a project fits into a long-range plan for meeting the needs of the Federal work force; and

(6) the problems described in paragraphs (1) through (5) have resulted in an inefficient and ineffective public buildings program and a drain of millions of tax dollars.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure that, after the date of enactment of this Act, the public building and leasing projects of the Federal Government meet the needs of the Federal work force in a more strategic cost-effective manner;

(2) strengthen congressional oversight of the real estate activities of GSA by requiring GSA to provide Congress with long-range public building plans and better information on individual projects that are subject to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a));

(3) ensure that GSA serves as a central repository for the asset management information of the Federal Government; and

(4) require a report on encouraging competition in the provision of Federal office and storage space to reduce the overall costs of providing office and storage space for the Federal Government.

**SEC. 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS PROJECTS.**

(a) IN GENERAL.—Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is amended—

(1) in subsection (a)—

(A) by striking the fourth sentence;

(B) by designating the first, second, and third sentences as clauses (i), (ii), and (iii), respectively, of paragraph (2)(B);

(C) by inserting after "(a)" the following new paragraph:

"(1)(A) Not later than February 1, 1995, and February 1 of every second year thereafter, the Administrator shall submit to Congress a biennial public buildings plan (referred to in this subsection as the 'biennial plan'), for the first 2 fiscal years that begin after the date of submission, for such projects relating to the construction, alteration, purchase, or acquisition of public buildings, or the lease of office or storage space, as the Administrator determines are necessary to carry out the duties of the Administrator under this Act or any other provision of law.

"(B) The biennial plan shall include—

"(i) a strategic long-term capital asset management plan for accommodating the public building needs of the Federal Government which reflects office space demands and fluctuations in market forces building construction and availability;

"(ii) a list, in order of priority, of construction, alteration, purchase, and acquisition projects subject to paragraph (2) for which authorizations of appropriations are requested for 1 or both of the 2 fiscal years referred to in subparagraph (A), including a description of each project and the number of square feet of space involved with respect to each project;

"(iii) a list, in order of priority, of lease and lease renewals for which authorizations of appropriations are requested for 1 or both of 2 fiscal years referred to in subparagraph (A);

"(iv) an explanation of the orders of priority specified under clauses (ii) and (iii);

"(v) a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed of;

"(vi) a proposed budget for the repair and maintenance of public buildings in existence on the date of the biennial plan;

"(vii) the estimated annual and total cost of each project; and

"(viii) recommendations, prepared in consultation with the Director of the Office of Management and Budget, with respect to appropriations that are necessary to carry out the biennial plan.

"(C)(i) The Administrator shall hold a public hearing, and certify in the biennial plan that the hearing was held, in the locality of each major construction, alteration, purchase, acquisition, or lease project included in the biennial plan.

"(ii) Each hearing shall—

"(I) examine—

"(aa) the economic, social, and other effects and benefits of the project to the locality; and

"(bb) the consistency of the project with local urban planning objectives; and

"(II) in the case of new construction, consider the impact of the project on local commercial vacancy rates.

"(D) The Administrator shall include in the biennial plan, with respect to each project—

"(i) any final report that is required to be prepared pursuant to any applicable Federal law including any environmental assessment or impact statement required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(ii) a report that indicates the consideration that was given to facts and issues concerning the project and the various alternatives that were raised during the hearing required under subparagraph (C) or that were otherwise considered.

"(E) If a project included in a biennial plan is not approved in accordance with this subsection, or if funds are not made available to carry out the project, the Administrator may include the project in the next biennial plan.";

(D) in paragraph (2) (as designated by subparagraph (B))—

(i) by inserting after "(2)" the following new subparagraph:

"(A) Notwithstanding any other provision of law, the Administrator may not obligate funds that are made available for any project for which approval is required under subparagraph (B) unless—

"(i) the project was included in the biennial plan for the fiscal year; and

"(ii) a prospectus for the project was submitted to Congress under subparagraph (C).";

(ii) in subparagraph (B) (as designated by subparagraph (B))—

(I) in clauses (i) and (ii) (as designated by subparagraph (B)), by striking "$1,500,000" each place it appears and inserting "$1,000,000";

(II) in clause (i) (as designated by subparagraph (B)), by adding at the end the following new sentence: "No funds may be used for the alteration of a public building to the extent that the cost of the alteration would result in an aggregate cost of alterations of the building in excess of $1,000,000 over a 5-year period, unless the alteration has been approved in accordance with this clause."; and

(III) in clause (ii) (as designated by subparagraph (B)), by adding at the end the following new sentence: "No funds may be used for the lease of space within a public building to the extent that the lease would result in an aggregate cost of the space leased within the building in excess of $1,000,000 annually, unless the lease for the additional space in the building has been approved in accordance with this clause."; and

(iii) by adding at the end the following new subparagraph:

"(C) For the purpose of obtaining approval of a proposed project under subparagraph (B), the Administrator shall transmit to Congress a prospectus of the project, including—

"(i) a brief description of the public building to be constructed, altered, purchased, acquired, or the space to be leased under this Act;

"(ii) the location of the public building or the space, and a description of other alternative locations considered, the costs of the alternative locations, and a brief explanation of the rejection of the alternative locations;

"(iii) an estimate of the maximum cost, based on the standards for measuring office space of the Building Owners and Managers Association, to the Federal Government of the public building to be constructed, altered, purchased, or acquired, or the space to be leased;

"(iv) with respect to each alteration of a public building—

"(I) a description of each previous alteration and the cost of the alteration;

"(II) a statement of whether future expenditures for which approval is required under subparagraph (B) are anticipated to maintain the building; and

"(III) the expected remaining useful life of the building;

"(v) a comprehensive plan for providing space for all Federal Government officers and employees in the locality of the proposed public building or the space to be leased, after considering suitable space that may continue to be available in Federal Government-owned or occupied public buildings in existence on the date of the plan;

"(vi) with respect to each project for the construction, alteration, purchase, or acquisition of a public building, a statement by the Administrator that suitable space owned by the Federal Government is not available and that suitable rental space is not available at a price commensurate with the price of the proposed project;

"(vii) a descriptive analysis that outlines the rationale, economics, and cost savings associated with selecting construction, alteration, purchase, or acquisition of a public building over each of the other alternatives, including a certification by the Administrator that realistic economic assumptions are utilized to justify a proposed project; and

"(viii) a statement of rents and other housing costs being paid, as of the date of the prospectus, by the Federal Government for the Federal agencies to be housed in the public building to be constructed, altered, purchased, or acquired, or the space to be leased."; and

(E) by adding at the end the following new paragraph:

"(3) If the Administrator, in consultation with the Commissioner of the Public Buildings Service, determines that an overriding economic or safety interest requires emergency authority to construct, alter, purchase, or acquire a public building, or lease office or storage space, and that the authority cannot be obtained in a timely manner through the biennial planning process required under paragraph (1), the Administrator may submit a written request for the authority to the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives. If Congress specifically provides the authority by Act of Congress, the Administrator may carry out the emergency project.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively.

(b) INCLUSION OF REQUESTED BUILDING PROJECTS IN BIENNIAL PLAN.—Section 11(b) of such Act (40 U.S.C. 610(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may include a prospectus for the funding of a public building project for which a report is submitted under paragraph (1) in a biennial public buildings plan required under section 7(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 4(b) of such Act (40 U.S.C. 603(b)) is amended by striking "$1,500,000" and inserting "$1,000,000".

(2)(A) Section 7 of such Act (40 U.S.C. 606) is amended—

(i) in subsection (a), by striking "Committee on Public Works of the Senate and House of Representatives, respectively" each place it appears and inserting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(ii) in subsection (c)—

(I) by striking "Committees on Public Works of the Senate and of the House of Representatives, respectively," and inserting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(II) by striking "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives," and inserting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

(B) Section 11(b) of such Act (40 U.S.C. 610(b)) is amended by striking "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives" and inserting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

**SEC. 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.**

Section 12 of the Public Buildings Act of 1959 (40 U.S.C. 611) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator shall use the results of the continuing investigation and survey required under paragraph (1) to establish a central repository for the asset management information of the Federal Government."; and

(2) in subsection (b)—

(A) by designating the first and second sentences as paragraphs (1) and (2), respectively; and

(B) by adding at the end the following new paragraph:

"(3)(A) Each Federal agency shall—

"(i) identify unneeded, obsolete, and underutilized public buildings; and

"(ii) annually report the information on the buildings described in clause (i) to the Administrator.

"(B) The Administrator shall find more cost-effective uses for, or sell, the public buildings identified under subparagraph (A).".

**SEC. 5. DESIGNATION OF PUBLIC BUILDINGS OMBUDSMAN.**

The Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

**"SEC. 22. DESIGNATION OF PUBLIC BUILDINGS OMBUDSMAN.**

"(a) IN GENERAL.—The Administrator shall designate an official to act as ombudsman within the Public Buildings Service of the General Services Administration. The ombudsman shall carry out the duties described in subsection (b).

"(b) DUTIES.—The ombudsman designated under subsection (a) shall—

"(1) receive complaints, grievances, and requests for information from the public with respect to matters relating to public buildings and concerning private sector business interests and contracting officers of the General Services Administration;

"(2) make findings and render assistance with respect to the complaints, grievances, and requests received under paragraph (1); and

"(3) make such recommendations to the Administrator as the ombudsman considers appropriate.".

**SEC. 6. REPORT ON ENDING GSA MONOPOLY WITH RESPECT TO PUBLIC BUILDINGS PROJECTS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, shall report to Congress on the feasibility and desirability

of ending the monopoly of the General Services Administration with respect to providing office and storage space for Federal agencies, including whether the ending of the monopoly is necessary and would be cost-effective.

(b) PLAN.—If the report required under subsection (a) determines that it is feasible and desirable to end the monopoly, the Director shall submit a plan for ending the monopoly and provide recommendations for the implementation of the plan. The plan shall ensure at least an oversight role for the General Services Administration in determining the adequacy of the request of an individual agency for office or storage space and whether a proposed project with respect to space is in the best economic interests of taxpayers.

**SEC. 7. ADDRESSING GOVERNMENT DOWNSIZING.**

(a) REPORT ON LONG-TERM HOUSING NEEDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each Federal agency (as defined in section 13(3) of the Public Buildings Act of 1959 (40 U.S.C. 612(3)) shall review and report to Congress on the long-term housing needs of the agency. The agency shall attempt to provide for the reduction of the housing needs of the agency.

(2) ASSISTANCE FROM ACCOUNT MANAGERS.—The Administrator of General Services shall designate 2 account managers for each agency to assist—

(A) the agency in carrying out the review required under paragraph (1); and

(B) the Administrator in preparing uniform standards for housing needs for—

(i) executive agencies (as defined in section 13(4) of such Act (40 U.S.C. 612(4)); and

(ii) establishments in the judicial branch of the Federal Government.

(b) REDUCTION IN HOUSING COSTS.—By the end of the third fiscal year that begins after the date of enactment of this Act, each Federal agency referred to in subsection (a)(1) shall reduce by no less than 5 percent—

(1) the aggregate office and storage space held by the agency on the date of enactment of this Act; or

(2) the annual housing costs (including the costs of energy, supplies, furniture, and minor repairs) of the agency, as compared to the housing costs of the agency for the fiscal year during which this Act was enacted.

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SUMMARY OF PUBLIC BUILDINGS REFORM ACT OF 1993

SECTION 1. SHORT TITLE

SECTION 2. FINDINGS & PURPOSE

SECTION 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS PROJECTS

. . . requires GSA to submit to Congress, as part of an ongoing two year planning cycle, its authorization and appropriations requests, in order of priority, for building, altering, purchasing or leasing government office space.

. . . requires GSA to hold public hearings in the locality of each major project included in the biennial plan to examine the costs and benefits of the projects and, in the case of new construction, to consider the impact of the project on local commercial vacancy rates.

. . . prevents the Administrator from obligating funds for any prospectus-level project unless the project is part of the biennial plan for the fiscal year and unless a prospectus for it is also submitted to and authorized by appropriate congressional committees, as required under current law.

. . . reduces the trigger by which certain projects are submitted to Congress for review and approval. The trigger threshold is lowered from $1.5 million to $1 million a year per new construction project. Also, language is included to assure that the appropriate congressional committees have the opportunity to approve repair projects in a given building if the aggregate cost of such repairs will exceed $1 million over 5 years. Committee approval would also be required for all leases in a particular building if their aggregate cost exceeds $1 million annually.

. . . improves upon the information included in prospectuses sent to Congress by, among other things, requiring GSA to base its cost estimates on the same standards used by the private sector's Building Owners and Managers Association. Also requires GSA to prepare a descriptive analysis outlining the rationale for selecting construction, alteration, purchase or acquisition of a public building over each of the other alternatives including certifying that realistic economic assumptions are utilized to justify a project.

. . . provides emergency authority to the Administrator to obtain office space outside the biennial planning process only if there is an overriding economic or safety interest at stake. Congress would have to enact such emergency authority on a project-by-project basis.

. . . ends GSA's ability to increase the costs of projects by 10% without prior Congressional approval.

. . . ensures that "11b" project requests made by congressional committees are considered as part of the overall biennial planning process and not authorized separately.

SECTION 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.

. . . establishes a central repository at GSA to house the asset management information of the Federal Government. Each agency will identify unneeded, obsolete and underutilized public buildings and annually report the information to GSA. GSA, in turn, will find more cost-effective uses for the public buildings, including selling them.

SECTION 5. DESIGNATION OF PUBLIC BUILDING OMBUDSMAN

. . . creates an ombudsman within the Public Buildings Service of GSA to help mitigate problems arising between private sector business interests and GSA contracting officers.

SECTION 6. REPORT ON ENDING GSA MONOPOLY WITH RESPECT TO PUBLIC BUILDING PROJECTS

. . . requires OMB, in consultation with GSA, to report to Congress within one year on the feasibility of ending GSA's monopoly in providing office space for Federal workers. Preserves an oversight role for GSA over other agencies real estate activities if it is determined that the monopoly should be ended.

SECTION 7. ADDRESSING GOVERNMENT DOWNSIZING

. . . within one year, each agency shall report to Congress on the long-term housing needs of the agency in an attempt to reduce the need for space. GSA will designate managers to each agency to assist in this review and to help GSA prepare uniform standards for housing needs for executive agencies and the courts. By the end of the third year, each federal agency shall reduce by no less than 5 percent its aggregate office space or housing costs (including the costs of energy, supplies, furniture, and minor repairs.)

Mr. SIMPSON. Mr. President, I am most pleased to rise today and join my colleagues from the Environment and Public Works Committee to introduce this legislation. In particular, I want to commend my able and hard-working colleagues on the GSA Task Force, Senator HOWARD METZENBAUM and Senator BARBARA BOXER. Senator BOXER has been most outstanding in her work on our task force. Senator METZENBAUM, as always, has been particularly dogged and unstinting in his drive direction, perseverance, and his energy. It has been a true delight to work with them both in this endeavor.

Mr. President. Our work is just beginning with the introduction of this legislation. I want to make it very clear that we are committed to working with the Administration—particularly the General Services Administration and the Office of Management and Budget—in continuing to fine tune this bill.

There is wide agreement that something is very wrong with the process our government uses in leasing and constructing the necessary buildings to house our government agencies. It became obvious early in the course of our task force investigations, that the American taxpayer is not being well served. We know there is a problem when contractors or suppliers candidly tell us that the GSA is the best thing that ever happened for their own profitability in their own business. During past administrations—Republican and Democrat alike—the GSA has become a giant "milk cow" and there is a feeding frenzy of contractors, landlords, and suppliers out there who are getting fat on the cream paid for by the taxpayers.

That is not the fault of any individual or group of employees at the GSA. Our task force has learned that most—if not all—are hard working and honest folks. It is the process that has been skewed, and that is our focus.

The current administration was elected on a platform of change. This legislation will do much to accomplish real, measurable, and positive change.

On a positive note—the current GSA Administrator, Mr. Roger Johnson, has the potential, in my view, to be the best Administrator in the history of that agency. He has been most cooperative with the work of our task force.

Our colleague and chairman of the task force, Senator METZENBAUM, has already explained this legislation in some detail. I would take this opportunity to briefly outline the provisions that I feel are the most significant in terms of changing the process and saving taxpayer dollars.

This legislation directs the Administrator to create a long-term asset management plan for our government. Such a concept is not at all revolutionary, Mr. President. However, our task force has discovered that the GSA has never had such a plan. So, in that respect, we are indeed plowing new ground.

In order to be an effective manager of the Government's capital assets—

buildings—the GSA must have a planning tool that can help the Administration and Congress make responsible, long term decisions concerning the housing needs of our Government. We were amazed, Mr. President, to learn that the personnel of the GSA knew they should have such a plan, but that the combined influences of shifting priorities and of political pressure have prevented that from ever happening. The taxpayers have been poorly served by the existing practice. This legislation, Mr. President, will help bring about the necessary change in the planning process to best serve American taxpayers.

As an integral part of a long-term capital asset management plan, the GSA will be required to prepare a capital budget. The GSA will consult with the Office of Management and Budget in preparing that budget and long term building plan. GSA will submit that plan to the authorizing committees of the House and Senate every 2 years.

The authorization committees of both Houses of Congress will continue to be responsible for oversight and examination of the 2-year plan. That will accomplish another significant change.

For the first time in recent memory, the Appropriations Committees will have a tangible financial plan from the GSA that they can use in making more informed spending decisions. That will do much to eliminate the potential for waste and congressional overspending.

This planning and budgeting procedure can be accomplished within the existing scoring rules of the budget agreement. It is our intent, with the valuable assistance of the OMB and the GSA, to create a process which will forcefully encourage ownership, instead of leasing, and still provide the GSA with the necessary fiscal flexibility to get the best deal possible for the American taxpayer. We can do that without changing the scoring rules, and we can do that within the constraints of the budget agreement.

One section of the existing Public Buildings Act, section 11(b), has been a giant maw of a loophole which has allowed truckloads of pure pork projects to be shipped all over our country. Billions of dollars for buildings have been appropriated based on 11(b) reports of need. At best, there has been minimal oversight by any Member of Congress. Indeed, Mr. President, I would hunch that there was never any "oversight" of any of those projects whatsoever.

Section 11(b) is a curious section of the Public Buildings Act. It is my understanding that this section was originally included to provide a means whereby a Member of Congress could obtain a preliminary review of whether there was a legitimate need for additional Government office space. The only other way that the GSA could be directed to explore ways to obtain additional space was if the agency made a direct request.

Over the years, however, section 11(b) has somehow assumed an almost magical quality. I am unaware of any instance where the GSA has ever said there was no "need" in such a report. Somehow, an 11(b) report has been allowed to evolve into an alternative to the statutory process which otherwise requires that the authorizing committees must approve a proposal prior to an appropriation.

Now, Mr. President, it is virtually guaranteed that if anyone requests an 11(b) report, there will be a building constructed—regardless of whether it is truly needed or even wise to do so. Believe it, that violates both the letter and the spirit of the Public Buildings Act.

The legislation we are introducing today does not repeal section 11(b). Even though that would be my personal preference. The task force has recognized that there can be a legitimate purpose to be served by that section. The question we had to wrestle with, then, was how to ensure that section 11(b) is used legitimately.

We believe that we have accomplished that goal with a provision in this legislation which requires a 2-year public buildings plan to be submitted for thorough review. This section provides that the Administrator, at his discretion, may include an 11(b) project in his long-term plan.

However, the Administrator must also provide certain additional information for committee review. He must prioritize that 11(b) project on an equal footing with the other building priorities. He must provide detailed reports on the true need, the long-term costs, the alternatives and the cost of those alternatives, as well as any other economic, social, or environmental impacts of the project.

In short, Mr. President, before any building proposal is approved, the GSA must stand tall behind it—with facts, figures, and alternatives. Most importantly, the GSA must be prepared to budget for that proposal. That will mean that there may be other buildings that have a lower priority. We will no longer be appropriating funds without rhyme, reason, or purpose in mind.

The ultimate goal, for this Senator, is to put in place legislation that will get the Government back in the building owning mode, and away from the wasteful leasing mode.

It was not too long ago when the Federal Government owned nearly 60 percent of the building space it occupied. During the past few years, in part because of the scoring rules and lack of long term capital management plans, the Government's ownership percentage has dropped to nearly 40 percent. That, in my view, is wasteful, disgraceful, and unacceptable.

This legislation will help get us back on track. We will move toward ownership and sound management practices.

I look forward to the hard work ahead. We will be having hearings on this legislation early in the second session of this Congress. We will be doing all that we can to work together and see this legislation passed by both bodies of Congress and signed into law by the end of the 103d Congress.

Again, I want to thank my colleagues on this task force, and pay special tribute to our fine steady committee chairman, Senator BAUCUS, and our effective and always cooperative ranking member, Senator CHAFEE. Without their steady support and assistance, we would not have come this far. I do look forward to their continued participation and support.

Mrs. BOXER. Mr. President, today with the introduction of the Public Buildings Projects Act, we are taking the long-awaited step to change the way the Federal Government procures and manages its 250 million square feet of office space and $188 billion worth of real estate.

The office space splurge that has flooded the Federal building procurement process will be brought under specific controls each step of the way, from public hearings in the affected localities, to thorough reporting requirements to the public works committees of Congress. And, just in case procurement abuses are not uncovered in this process, contractors and other interested citizens will have an ombudsman to go to with their complaints.

In addition, we will curb the political gameplaying that provides only a veneer of justification for many past public building projects. Once this legislation is enacted, each public building project hereafter will have the sanction of the Administrator of the General Services Administration [GSA] or it will not go forward.

The key to this legislation is the establishment of a capital asset management program by the GSA. I am particularly pleased with the requirement in this bill for the Administrator to consider suitable space that may be available in existing Federal properties. Military base closings in California and across the country will leave considerable vacant Federal building space. GSA should be taking this space into account before constructing new buildings for Federal agencies or leasing additional space.

Finally, this bill takes the first serious step to study whether the GSA should have a monopoly on managing Federal office space. Perhaps the staff of the agencies looking for new quarters, given a limited budget, can do a better job in obtaining the most practical, cost-effective procurement possible.

It is time to bring the cost efficiencies of reducing the size of the Federal Government to the agency that houses the Federal Government, the General Services Administration. The

landlord—the Federal taxpayers—deserve to get the best value for their money.

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By Mr. HATCH (for himself, Mr. KENNEDY, and Mrs. KASSEBAUM):

S. 1762. A bill to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements; considered and passed.

DIETARY SUPPLEMENT REGULATION MORATORIUM ACT OF 1993

Mr. HATCH. Mr. President, I rise today to introduce the Dietary Supplement Regulation Moratorium Act of 1993, along with Senators KENNEDY and KASSEBAUM.

This legislation is necessary to ensure that the Food and Drug Administration does not take any unwarranted action on dietary supplements before Congress has the opportunity to consider the issue next year.

As of last night, a total of 63 Members of the U.S. Senate—Democrats and Republicans, liberals and conservatives alike—63 U.S. Senators have united to stand against the food and Drug Administration's completely unwarranted efforts to torpedo the dietary supplement industry and restrict 100 million consumers' access to safe products.

These 63 cosponsors of S. 784, the Dietary Supplement Health and Education Act, are the real champions of democracy, because they are doing what they were sent to Washington to do: represent the people.

And Mr. President, as of last night, 207 Members of the House of Representatives—Democrats and Republicans, liberals and conservatives—207 U.S. Representatives have united behind the valiant efforts of our colleagues, BILL RICHARDSON and ELTON GALLEGLY, to say to the FDA, "enough is enough. we don't support your overly-regulatory bureaucracy which is impeding consumers' ability to receive information about the healthful benefits of dietary supplements."

In my eyes, Mr. President, and the eyes of over 100 million Americans, these 207 House Members who have cosponsored S. 1709 represent the best and the brightest in our Government, because they alone recognize that the people have spoken. And the people want the dietary supplement legislation enacted this year.

I am sad to say, though, that despite weeks of meetings with Senators and their staffs, with consumer representatives and AIDS activists, with lawyers and industry CEOs, with citizen activists and leading medical researchers—weeks during which we made genuine progress in negotiating an acceptable bill—the labor committee could not reach agreement.

As Ken Murdock, Chairman of the Board of Nature's Way Products in Springville, UT, said to me, "Senator HATCH, a bad bill is not better than any bill at all." I agree completely with his analysis.

Let me be clear about this. I understand that changes will be made in a final compromise. Many, both for and against the bill, have indicated they believe there are areas of S. 784 which need improvement. They believe that the safety sections need to be strengthened. They believe that dietary supplement health claims should be measured against the same "significant scientific agreement" standard that applies to foods.

And I am committed to make these changes. No one wants snake oil on the market, least of all I. No one wants unsafe products on the market, least of all I.

I agree that there should be adequate scientific information to prove claims that dietary supplements have the represented health benefits. I agree that unsafe products should not be marketed. The bill should reflect this.

And, so, with much regret—because I genuinely believe it was possible to enact a bill this year—after conferring with our outstanding House leader, Representative BILL RICHARDSON, I reluctantly concluded that it would not be possible to reach agreement this year.

During the time before Congress reconvenes, we will start again, and the case brought to the Congress by the American people will only be all-the-more compelling.

Here is the irony in all this. Efforts to improve our health care stand at the top of the national agenda. It is the top priority of the President of the United States and the First Lady.

And here we have 100 million people who are working to lead healthy lives, who are doing everything the Government wants them to do, and we turn around and say, "Hey, the majority of the Congress supports you, but unfortunately, we can't get a bill passed."

Today we stand at a crossroads. Either we can seize the initiative and resolve this issue, or we can double back, do nothing, and allow the FDA to continue its life-and-death grip on products which have been proven to enhance public health.

The choice to me is obvious.

It is no secret to anyone in this Chamber how I feel about dietary supplements.

I really believe in them. I use them daily. They make me feel better, as they make millions of Americans feel better.

And it is no secret that the dietary supplement industry is large in Utah, some $700 million to $1 billion a year.

There is no issue I feel with more passion than dietary supplements. I have been smeared publicly by detractors of this legislation. They allege that I am pushing this legislation to protect a financial interest which is so small it is laughable.

No, the interest I am trying to protect is the people of this United States, the people who are flooding our phone lines and our offices with pleas to get the FDA off their backs.

The other day my office had a call from a lawyer in Utah whose company was being challenged by the FDA because the toothpaste if distributes whitens and brightens. The FDA said that was a drug claim. Is that what we want the FDA to be enforcing?

And if you think it's bad now, just you wait.

BILL RICHARDSON, ELTON GALLEGLY, and I have joined together to halt the FDA's nonsensical attitude, to use a polite term, an attitude which presumes that all Americans are idiots and don't have the brains to make health care choices for themselves.

I want my colleagues to know that I believe we are making progress in our negotiations, but we aren't there yet. For this reason, Senator KENNEDY, Senator KASSEBAUM, and I have drafted this bill, the "Dietary Supplement Regulation Moratorium Act of 1993," which will impose a 4-month moratorium with respect to the issuance of regulations on dietary supplements. It is our intent that this legislation would not preclude the FDA from work on finalizing claims which are in the pipeline, namely that for folic acid.

This legislation shows the Congress continued commitment to resolving the dietary supplement issue in favor of the American people. We owe it to them.

Mr. President, there has been so much confusion surrounding the dietary supplement issue.

The FDA has testified before Congress that they have no intent to make dietary supplements available as drugs, yet they publish Federal Register notices saying they will.

The FDA has come to the Congress decrying snake oil, but then avers that 80 percent of the market is safe.

One month the FDA sends a report to Congress stating, "The vast majority of dietary supplements consumed today do not raise serious health or regulatory concerns".

The next month, the Commissioner testifies before the House that "for every dietary supplement in the marketplace that may have some value, there are 100 or 1,000 that are worthless."

The FDA has presented the Congress with a report, "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace," which is so riddled with inaccuracies that Congressman RICHARDSON and I have called upon the administration to withdraw it.

I ask unanimous consent that my analysis of this report, entitled "False and Misleading", be inserted in the RECORD at this point.

The FDA has taken a solid law, the Nutrition Labeling and Education Act, and turned it on its head. The point of the NLEA was to educate the consumer about good nutrition, not block information.

Is the FDA educating the public about good health by refusing to allow pregnant women to be informed that 0.4mg of folic acid taken daily could dramatically reduce their chance of having a baby with birth defects?

Is FDA educating the public when it holds up the shield of "significant scientific agreement" to block all supplements but calcium from bearing health claims?

Is FDA protecting the public health when it turns down a health claim for antioxidants, even though surveys show 8 out of 10 doctors regularly use vitamin E?

The FDA has come before the Labor and Human Resources Committee and was unable to advise on such a simple question as to whether or not it would be a violation of the law for health food stores to hand out legitimate journal articles or Government publications that discuss dietary supplements.

I ask unanimous consent that two such articles, one a reprint from the New England Journal of Medicine regarding Vitamin E, and the other a Centers for Disease Control Morbidity and Mortality Weekly Report on folic acid be included in the RECORD.

In closing, Mr. President, during this new moratorium, I urge the administration to do what they did not do during the current moratorium.

I challenge the administration to work with us to find a solution to this problem.

I challenge the 33 Senators who are not cosponsors of S. 784, and the 228 Members of the House who are not cosponsors of H.R. 1709 to work with us to find a solution to this problem.

And I also challenge the American public to take on the FDA in a direct way.

I challenge every dietary supplement proprietor in the Nation to reprint these articles and place them in their stores. I challenge every user of dietary supplements to go to the stores and distributors where they purchase their nutritional products and ask for this information. Perhaps, in this way, we can seize the answers we seek.

Mr. President, we are here as representatives of the people. The people have spoken and their views are clear. They want access to dietary supplement products, access to information about those products, and they want Congress to make certain that happens.

Since the Dietary Supplement Health and Education Act cannot be considered this year, a moratorium is clearly necessary. For this reason, Senators KENNEDY, KASSEBAUM, and I have drafted the legislation we are now considering, and I urge its immediate consideration.

Mr. President, I ask unanimous consent to print additional material at the conclusion of my remarks.

Without objection the material was printed in the RECORD, as follows:

FALSE AND MISLEADING—FDA'S REPORT "UNSUBSTANTIATED CLAIMS AND DOCUMENTED HEALTH HAZARDS IN THE DIETARY MARKETPLACE"

(A Staff Report to Senator Orrin G. Hatch)

I. EXECUTIVE SUMMARY

The Food and Drug Administration report, "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace," released July 29, 1993 at a House Subcommittee hearing on dietary supplements, should be immediately withdrawn and the FDA should apologize to the Congress and the public for its release. This false and misleading document is so riddled with inaccuracies that it lacks any evidentiary value and raises serious questions about the motives of those who are responsible for its preparation.

The report was designed to support FDA's objections to pending legislation which would clarify the agency's regulation of dietary supplements. An analysis of the report and the underlying documentation used in its preparation reveal that FDA has knowingly submitted false information to Congress, and that it has willfully violated the presumption of accuracy and impartiality traditionally granted the agency. The report conclusively proves FDA's animosity to dietary supplements.

The Clinton Administration must take immediate steps to discipline those who have participated in the preparation and submission of this misleading document and to make sure that future information provided by the FDA to Congress and the American people is both accurate and unbiased and gathered pursuant to federal law.

There can be little doubt that the report was hastily thrown together for a dramatic unveiling at the Congressional hearing. The FDA completely ignored the rigorous preapproval requirements for surveys in the Federal Paperwork Reduction Act. According to the agency's own documents, barely three weeks before the July 29 hearing, 63 agency officials were sent out in a nationwide "undercover survey" to find examples of health food store employees making unsubstantiated claims. Their operating instructions were laid out in a "not for public distribution" memorandum, which instructed these employees on how to dress and act, what leading questions should be asked, and not to discuss the assignment outside of the office. The results of their investigation were to be conveyed secretly on a specially prepared reporting form. It is hard to imagine a clearer case of government entrapment and misuse of taxpayer dollars.

The field reports from the undercover agents were thrown together with claims taken from selected items of dietary supplement literature which, according to Dr. Kessler's testimony, "the agency just happened to have." This jumble of "evidence" became the body of the report released to Congress. And, not surprisingly, much of the report is wrong.

Incredibly, 142 of the 528 products listed in the first section of the report are not manufactured, sold or distributed by the company to which they are attributed. Moreover, 34 "products" simply do not exist. The FDA's own substantiation for 6 products does not contain the claim alleged by the agency. Seventeen products on the list were no longer marketed at the time the report was released. Duplications and mistakes account for another 25 products. One of the alleged products listed in the report is not even a dietary supplement. It is a paperback book. In other words, a substantial part of the report is simply wrong!

More than half of the 528 products are attributed to only three companies. One has never been contacted by the FDA. A second, inspected by the agency for several weeks in 1992, was promised a detailed response but never heard from FDA. This company complained to the Congress after FDA released the report. The third was sent two warning letters by FDA. That company responded immediately and changed the promotional material for 19 of its products. Nevertheless, all 19 products were included in the report.

FDA did not provide this office with any substantiation for the entire section of the report concerning recent regulatory actions taken by the FDA against dietary supplement companies. Consequently, it is impossible to determine when the actions were taken, the companies' responses, or the current status of the products in question. Moreover, it is impossible to determine either the amount of agency resources spent on these actions or the justification for the agency's regulatory priorities for why some supplements were targeted and others were not.

The third section of the report, a compilation of statements attributed to store employees, is the most disturbing. Several of the actual field reports clearly were heavily edited to produce a dramatic report.

What makes the report even more disturbing was that it was used as the foundation for Dr. Kessler's inflammatory conclusion at the House Subcommittee hearing: "We are back at the turn of the century, when snake-oil salesmen could hawk their potions with promises that couldn't be kept."

Not surprisingly, members of Congress and the media were misled and innocent companies were defamed. One congressman described the report as a "pretty impressive report of unsubstantiated claims and documented health hazards in the dietary supplement marketplace." Articles in the Los Angeles Times, USA Today, and other national publications highlighted the report and the 500 examples of unsubstantiated claims. Network TV carried the Commissioner's statements on national television. These comments were made on the assumption that the FDA report was accurate. We now know it was not.

II. FALSE AND MISLEADING STATEMENTS IN THE SECTION ENTITLED: A REVIEW OF CURRENT PROMOTIONAL LITERATURE AVAILABLE TO CONSUMERS IN THE MARKETPLACE RELATED TO SPECIFIC ILLNESSES

The staff analysis in this section is based on a sampling of the information contained in the report from eight companies as these contained more than half the "claims in the report.

*Key inaccuracies in the report*

Thirty four of the 528 products on the list simply do not exist; 142 were assigned to companies that neither manufacture or sell the product; 25 products are listed more than once; one of the alleged dietary supplements is not a product but a paperback book; 3 products are listed more than once for the same claim; and, 17 of the products on the list were removed from the marketplace prior to release of the report.

The FDA states that the first section of the report compiles "examples of dietary supplements and the claims being made for those products. Only printed claims have been included in the list: Pamphlets and brochures, leaflets, point of purchase materials and product advertisements were the primary sources of the claims." [Emphasis added] It is very important to recognize that the claims in the report were not based on any label attached to a product.

This 40 page section lists 528 products containing the name of the product, the firm which allegedly manufactures or sells the product, and the "unsubstantiated claim." For the most part, the products are grouped by selected bodily symptoms or systems. They are not listed alphabetically or by company, thus, making it very difficult to crosscheck the relationships between the product and the claim.

FDA asserts that "each product makes at least one unsubstantiated claim" and "most make several." The agency concludes that "they all have one thing in common: Not one of the claims has been substantiated by the FDA before their appearance in the marketplace."

When the report was released at the July 29, 1993 hearing, it was immediately questioned. Congressman Bliley (R-VA) asked Dr. Kessler whether he was aware of some of the inaccuracies in the report and that companies had been cited for products which they did not manufacture or sell. Dr. Kessler responded by assuring Mr. Bliley that there was "a lot of material in boxes," but that the FDA had "documentation behind each one of these claims." When pushed further, Dr. Kessler promised to provide the Subcommittee with copies of the agency's documentation for each of the claims in the report, which he did after some delay. A careful review of these documents has raised additional concerns about the accuracy of the report and has brought into question the motives of those who were involved in its preparation.

*Wrongly attributed products to Crystal Star Herbal Nutrition*

According to the FDA, the report is supposedly a list of products for which a manufacturer or the seller is making "unsubstantiated" claims. The most frequently listed company in this section is Crystal Star which is charged with having made 178 of the 528 products on the FDA's list, roughly 34%. In other words, one out of every three products on the list is allegedly a Crystal Star product.

The facts are that Crystal Star, a small firm of 15 people in Sonora, California, does not make, manufacture or sell 141 of the 178 products attributed to it. Moreover, the claims do not come from Crystal Star pamphlets, brochures, leaflets, point of purchase materials and product advertisements. Rather, the FDA relied solely upon "Healthy Healing", a reference book written by Linda Rector Page, a well known author and one of the founders of the company. The book is not a catalog of company products. The reference book cautions: "To be used for information only. It is not a claim for cure or mitigation of disease, but is rather an adjunctive approach—supplying individual daily nutritional needs that otherwise might be lacking in today's diet."

*Wrongly listed products that do not exist*

The agency went to great extremes to attribute certain non-existing products to Crystal Star Herbal Nutrition. Statements of nutritional fact and the author's general description of dietary substances were taken out of context or were used by the agency to justify listing a product and a claim, even where no product exists.

At the beginning of "Healthy Healing," the author devotes several pages to describing common nutrients and dietary substances and the foods in which they can be found. No specific products are even mentioned. Nonetheless, the FDA has used these statements to justify putting several products on the list. For example, on page 14 of the book, the author provides a general discussion of the nutritional role of Vitamin C. This is used by the FDA to justify attributing a product, Vitamin C, to Crystal Star.

In fact, Crystal Star Herbal Nutrition does not make or sell Vitamin C, nor has it published any brochures, pamphlets or other advertising materials about Vitamin C. The FDA uses this one section of the book to justify assigning 33 non-existent products to Crystal Star. Similarly, on page 25, the retail store, the Herb Nook, is assigned a product, P-4, which it does not sell.

*Wrongly listed products no longer on the market*

The FDA also included products in the list which are no longer on the market. For example, three products assigned to Country Life, a firm in Hauppauge, New York, are not on the market. L-Cystine, which is listed on page 2, has not been sold for more than two years. The firm does not carry L-Isoleucine, which is listed on page 24, and Formula II Glycemic Factors, on page 26, is no longer on the market.

On page 11 of the report, the FDA attributes the product, Chaparral, to the Herb Nook, of Austin, Texas. But, according to the firm, it no longer carries this product, and is not in the current company brochure, which was revised in April 1993. This same product is also listed on page 32 of the FDA report, under the section on cancer.

The agency also listed 12 products assigned to the Health Center for Better Living which are no longer sold by the company. For example, Comfrey, which is listed on page 25 of the report, was not in the company's catalog at the time of the FDA report. Poke Root, is not sold by the company. Beech is not sold by the company, nor is Skunk Cabbage.

None of these three companies were contacted by the FDA prior to the release of the report to make sure that products in question were still being sold. Similarly, no effort was made by the FDA to determine whether the materials the agency "just happened to have" were up to date.

*Wrongly turned a paperback book into a manufacturer*

Perhaps the most startling and alarming example of the report's inaccuracies can be found on page two. The 10th product listed is actually a paperback book entitled, "The Miracle Nutrient: Coenzyme Q10," by Emile G. Bliznakov, M.D. and Gerald L. Hunt, published by Bantam Books, its 9th printing. The FDA has provided no evidence that either author manufactures or sells Coenzyme Q10. The book reviews products by many companies, and the authors recommend talking with one's family doctor before making any changes in one's diet. How a paperback book could be mistakenly included on a list of dietary supplement products making unsubstantiated claims defies explanation.

*Wrongly listed products more than once*

Twenty-five of the products are listed at least twice. In the introduction for the report, it might appear that the agency provided a justification for this duplication by asserting that almost all dietary supplements make multiple unsubstantiated claims. This explanation does not, however, explain why the agency listed the same product more than once, even though the unsubstantiated claim attributed to it was the same.

On page 13, the report lists the product Kyo-Chrome, and the company listed with it is "Wakunaga of American Co. Ltd., Makers of Kyolic." On page 18, the product is listed again, although this time the company listed is simply Kyolic, Ltd. (same company). The product is listed a third time on page 21. This time, the company listed with the product is a distributer. In all three instances, the "unsubstantiated claim" is the same.

On page 36, the product listed is Country Life Amino Acids (L-Lysine) and the company to which it is attributed is Country Life. This same product is also listed on page 39. In both instances, the "unsubstantiated claim" is the same.

The product Refresh with the claim "regulating cholesterol, metabolism and hormones" company fliers was listed twice, on page 12 and page 18, apparently because it was attributed by two different retail stores.

*Wrongly listed product language that had been already been changed at FDA's request*

Thirty-seven products were attributed to Indiana Botanic Gardens. Included were 19 products that had been the subject of FDA warning letters because of their description in a company brochure. The company had immediately responded to the warning letters and notified the FDA of its compliance with the requested changes months before the release of the report. In fact, the agency included its warning letters to the company in the section on recent regulatory actions.

*Wrongly made "unsubstantiated" synonymous with "false"*

FDA states that not one of the claims made for the 528 listed products has been substantiated by the agency prior to their appearance in the marketplace. This implies that no substantiation exists for any of these claims, which is patently untrue.

For example, the first product listed on page 17 is Garlicin, which is manufactured by Madaus Murdock, Inc., in Springville, Utah. This product is a garlic dietary supplement. A review of the agency's own documents reveal that the actual "unsubstantiated claim" for this combination product is as follows: "This powerful combination helps provide nutrients known to be present in healthy heart and circulatory systems."

It should be noted that manufacturers have complained that under FDA's proposed regulations they will not be able to petition the FDA for approval of claims relating to the cardiovascular benefits of garlic because herbs do not meet certain pre-conditions specified by the agency in its proposed NLEA regulations. As cardiovascular disease is this nation's leading cause of death, the FDA should at least consider using its scarce resources to evaluate the substantial worldwide scientific literature for garlic health claims rather than to continue to assert such claims are meritless.

III. STATEMENTS IN THE SECTION ENTITLED: "EXAMPLES OF RECENT REGULATORY ACTIONS"

This section purports to provide a list of representative regulatory actions, primarily product seizures and warning letters, taken by the FDA between November, 1990 and June, 1993 against 188 dietary supplement products that have made "unsubstantiated claims about serious medical conditions." The agency notes that each case is extremely resource-intensive and the current

investment of resources has failed to stem the tide of unsubstantiated claims. Unfortunately, it was not possible to determine the accuracy of these allegations, because the agency did not provide any documentation in support of this section. Moreover, the report does not provide any supporting information on the actual amount of staff time taken to prepare the warning letters or to conduct the product seizures.

IV. DISTORTIONS IN THE SECTION: "EXAMPLES OF CURRENT ORAL CLAIMS MADE BY HEALTH FOOD STORE EMPLOYEES FOR SPECIFIC ILLNESSES"

The FDA intended this section demonstrate the "pervasiveness of unsubstantiated claims for serious diseases being made for these products across the nation." To document its conclusions about oral claims, the agency sent an unusual, "not for public distribution" memorandum to all of its district offices dated July 8, 1993, which began as follows:

"In preparation for Congressman Waxman's July 29, 1993, hearing on dietary supplements, Dr. Kessler is eager to collect information on dietary supplement products currently on the market and the claims being made for them. Consequently, we are requesting the district offices to conduct an undercover survey of dietary supplements. Due to the sensitive nature of the subject, the assignment should not be discussed outside of the office."

The memorandum went on to require each district office to assign three consumer safety officers or inspectors to make 6 site visits to local health food stores. The visits were to be conducted undercover and the FDA employees were told to wear "casual dress" and to conduct themselves as if it were a "friendly visit." Sample questions were provided, and a special reporting form had to be completed at the conclusion of each visit.

The agency was unable to mask its bias to find unsubstantiated claims. The undercover investigators were told to collect only one product per visit, "preferably a product with significant claims" in one of three predetermined categories—immune system problems, cancer and hypertension or high blood pressure. If more than one product was recommended, the investigators were instructed to ask which product was best or which product the salesperson recommended.

The sample questions provided by the FDA removed any doubt as to the intent of the agency. They were as follows:

(A) I am feeling kind of weak, do you have anything to help fight infection or help my immune system?

(B) Do you have anything that works on cancer?

(C) What do you sell to help high blood pressure?

The FDA's interpretation of existing law and regulation would make virtually any answer to these questions, other than a refusal to respond, a violation of the law. For example, the FDA would assert that a product has been misbranded simply because an employee offers an opinion about the health benefits of the product. The questions were designed to create an offense where no offense existed prior to the question.

Since no records were kept by the store personnel, it would be impossible to determine the accuracy of the FDA's assertions in this section of the report, but the agency's own documents raise serious questions about the FDA findings.

According to the field reports, store employees did not make oral health claims about a specific product in 19 instances, more than six times the number reported by the FDA. In 5 of these 19 instances, the store employees specifically refused to make a claim, despite pressure from the undercover investigators. In addition, two reports were listed twice.

In at least 33 instances, store employees used a reference book to answer the questions posed by the undercover agents. Moreover, in 14 cases, agency personnel on their own noted that the store did not contain promotional material which made health claims about dietary supplements. Documentation for 7 visits was not made available by the FDA.

*Selective editing*

The FDA also heavily edited several investigator reports in an attempt to bolster the findings of this section. For example, on page 77 of the report, the agency unfairly claims that a pharmacist in Knoxville, Tennessee, indicated that some doctors recommended that their patients purchase and use niacin, primarily for cholesterol.

In contrast, in the actual investigation report, the undercover investigator asked the pharmacist which supplement might help with hypertension. The pharmacist indicated that some doctors recommended that some patients use niacin, primarily for cholesterol, *and then asked whether the undercover operative was currently taking any blood pressure medication. When the operative replied that she was taking Prazosin, the pharmacist then instructed the undercover operative not to buy the supplement until he had first consulted with his physician.* (emphasis added)

The portion of the investigator's report which the FDA chose to delete puts the entire discussion in a much different light. The pharmacist did not make a claim about a specific product, nor did she attempt to sell any product. Instead, she provided a general answer and then went the extra step to make sure that the operative did not purchase any dietary supplement until he had consulted with his doctor. Nonetheless, the FDA asserts that this conversation is an example of the "pervasiveness" of unsubstantiated claims being made in the market place.

Even a vague statement raises an FDA concern. On page 78 of the report, the investigator asked a sales clerk in a store in Buffalo, New York, for an alternative for high blood pressure medicine. According to the investigator's report, the clerk did not provide a specific answer nor mention an actual product. Instead, the sales clerk recommended a better diet, including a reduction in fat, and suggested that garlic might be added to soups and meat dishes. The undercover operative then asked about a specific product, which the clerk indicated she carried. The investigation report noted that there were no claims on this product nor was there any literature making any health claims about the product. One has to wonder what law the FDA feels that this sales clerk violated during the discussion.

On page 86 of the report, the undercover investigator asked an employee in a natural food store in San Francisco for "vitamins which were good for building immunity." The clerk responded that herbs were better for building immunity than vitamins and suggested that Siberian Ginseng and Echinacea herbs were thought to be good to use but *indicated that he was not allowed to recommend any specific product.* (emphasis added) The investigator also asked about what the store might have for immune-compromised individuals. The clerk recommended that the investigator contact a Chinese doctor and an herbalist. Again, the FDA uses this discussion as an example of pervasive, unsubstantiated claims being made in the marketplace.

On page 96 of the report, the investigator asked the two employees in a store in Pittsburgh, Pennsylvania, what they would "recommend for cancer." The actual investigation report indicates that the employees referred the investigator to a book, which made no specific claims about cancer. When pressed again, both employees refused to recommend any specific product.

On page 97 of the report, the investigator visited in a store in Aiea, Hawaii and asked whether the store had anything that worked for cancer. The employee stated that he was not a doctor and could not recommend any products and suggested that the investigator should do some research before purchasing any products. In its summary of this investigation, the FDA deleted the clerk's statement that he could not recommend any products.

Also on page 97 of the report, the investigator asked a clerk in a store in Tempe, Arizona, about two specific products for his girlfriend who has skin cancer. The clerk responded that he could not prescribe anything and gave the investigator a reference book. After the clerk found the two products requested by the investigator, he was asked again to make a recommendation. Once again, the store clerk refused to make a recommendation. The investigator asked for literature and was told that no literature was available. According to the agency, the "unsubstantiated claim" occurred when the clerk gave the undercover operative the reference book.

In sum, the section purports to be a list of examples where sales personnel were making "unsubstantiated" health claims about dietary supplements, yet a review of the actual investigation reports indicates that the FDA had to significantly edit several examples so that they could be included in the list. If the FDA had been accurate in its summary of these reports, the number of examples of incidents where store personnel made no claim about a specific product would have increased significantly, some six times the number claimed by the FDA.

*Use of reference books and materials*

As noted earlier, in several instances, the sales personnel consulted a reference book before answering the undercover operatives. The book mentioned the most frequently in the investigation reports was entitled, "Prescription for Nutritional Healing," which was written by James F. Balch, M.D. and Phyllis A. Balch, CNC. The book is based upon their experience using dietary supplements in patient care. The authors are in private practice and do not make any products.

The FDA apparently believes that any statement not pre-approved by the agency is an "unsubstantiated claim." Thus, the agency objects to a clerk referring to a reference book, making a statement about his or her own personal history, providing customer testimonials, making a general statement such as "many doctors say," or simply the offering of an opinion. The report does not describe how the FDA envisions regulating all of these forms of speech.

*Inappropriate use of federal resources*

What is most troubling about this section, however, is the fact that senior officials at the FDA, a branch of the federal government, directed 63 agency personnel to become undercover investigators to spy on their fellow citizens, hoping to entrap them

into making what the agency asserts are "unsubstantiated claims" about dietary supplement products. To make sure that this undercover operation produced the results sought by the agency, these undercover operatives were told to ask questions which the agency knew would likely produce a violation of the law. It would be hard to find a more blatant example of entrapment by federal officials.

Moreover, this operation was not an enforcement action to correct an identifiable problem. The agency made no effort to explain to store owners or employees that they should not make such representations or to discuss with these individuals what kind of claims or representations, if any, the agency feels are permissible.

The FDA ignored the Federal Paperwork Reduction Act which was designed to minimize the burden of government information collection, minimize the cost of such collection to the federal government, and maximize protection of Americans' privacy. Compliance with this law would have undoubtedly precluded the survey as it was conducted by the FDA. Indeed, that is the very purpose of the requirements of the Paperwork Reduction Act. Moreover, federal funds were not appropriated to FDA to conduct undercover surveys in order to develop supporting material for a Congressional hearing.

Amazingly, the only identifiable purpose for this undercover operation was to provide Dr. Kessler with something newsworthy for a Congressional hearing. At the very time that the agency is complaining publicly that it does not have adequate funds to perform its statutory mission, officials were willing to spend an estimated $25,000 on this one section alone in attempt to make Dr. Kessler look good before Congress and the national media. It is distressing to learn that the agency is willing to place a higher priority on the Commissioner's public posturing than on actually correcting the problems he and his agency complain are so pervasive.

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[From the New England Journal of Medicine]

VITAMIN E CONSUMPTION AND THE RISK OF CORONARY DISEASE IN WOMEN

(By Meir J. Stampfer, M.D., Charles H. Hennekens, M.D., JoAnn E. Manson, M.D., Graham A. Colditz, M.B., B.S., Bernard Rosner, Ph.D., and Walter C. Willett, M.D.)

Rapidly growing evidence suggests that oxidation of low-density lipoprotein (LDL) plays an important part in atherosclerosis. As Steinberg et al., have found,[1-3] oxidized LDL is taken up more readily than native LDL by macrophages to create foam cells. Also, oxidized LDL is chemotactic for circulating monocytes,[4] and it inhibits the motility of tissue macrophages.[5] It may also be cytotoxic to endothelial cells[6] and may increase vasoconstriction in arteries.[7] Oxidized LDL has been identified in atherosclerotic lesions,[8-10] and elevated titers of circulating autoantibodies to epitopes of oxidized LDL are found in patients with atherosclerosis.[11] Lipid peroxide concentrations have been found to be higher in patients with atherosclerosis.[12] In addition, the susceptibility of LDL to oxidation was correlated with the severity of atherosclerosis.[13]

Vitamin E is a potent lipid-soluble antioxidant carried in LDL.[14-15] It inhibits the proliferation of smooth-muscle cells in vitro,[16] and when added to plasma, it increases the resistance of LDL to oxidation.[17] LDL from volunteers given alpha-tocopherol supplements showed increased resistance to oxidation.[18] Several small trials of vitamin E in peripheral vascular disease have been reported, but the results have been inconclusive.[19-23] We therefore studied the association between vitamin E intake and the incidence of major coronary disease events in the Nurses' Health Study.

METHODS

The Nurses' Health Study began in 1976, when 121,700 female registered nurses living in 11 states completed mailed questionnaires containing items about lifestyle and medical history.[24, 25] Every two years, follow-up questionnaires are sent to update the information and identify newly diagnosed conditions.

ASCERTAINMENT OF DIET AND USE OF VITAMIN E SUPPLEMENTS

In 1980, a dietary questionnaire was included in the mailing that listed 61 food items, each with a specified portion size. The women reported the average frequency with which they had consumed each item during the previous year. We computed the average daily intake of nutrients by multiplying the frequency of consumption of each item by the nutrient content, and totaling the nutrient intake for all the food items. The reproducibility and validity of this questionnaire have been described elsewhere.[26-36] The correlation between vitamin E intake as assessed by the questionnaire and plasma alpha-tocopherol levels was 0.34 (P=0.006) in one study[26] and 0.42 (P=0.03) in another.[31] Because the correlation between two plasma levels measured eight weeks apart is about 0.6,[36] a higher correlation between a single plasma determination and dietary intake cannot be expected.

We assessed the dietary intake of the participants in 1980, but information on vitamin E intake and use of multivitamin supplements was also collected on each subsequent biennial questionnaire. Participants reported whether they regularly used multivitamin supplements, and if so, the exact type and brand. We also inquired about specific supplements, including vitamins A, C, and E and beta carotene.

STUDY POPULATION

A total of 98,462 nurses returned the 1980 diet questionnaire. We excluded women who left 10 or more items blank (4 percent), whose reported food scores were implausible (2.7 percent), and who had a history of cancer (except nonmelanoma skin cancer), angina, myocardial infarction, stroke, or other cardiovascular disease. A total of 87,245 women remained. All the exclusions were made before the analysis of the data.

Follow-up questionnaires were mailed to the participants in 1982, 1984, 1986, and 1988. Women who reported diagnoses of cardiovascular diseases were asked for permission to examine their medical records. We included women with cardiovascular conditions that occurred after the return of the 1980 questionnaire but before June 1, 1988. For each woman, only the first event was considered. On the basis of the responses to the questionnaire, follow-up for nonfatal outcomes was 97.1 percent of the total possible person-years.

A myocardial infarction was considered confirmed if it met the World Health Organization criteria[37] of symptoms and either typical electrocardiographic changes or elevated cardiac enzymes. Infarctions of indeterminate age were excluded. We designated as probable infarctions those that were reported by the nurse, required hospitalization, and were corroborated by additional information (in a letter or telephone interview), but for which records were unobtainable.

Most deaths were reported by relatives or postal authorities. We searched the National Death Index for the names of nonrespondents and estimate that over 98 percent of deaths were identified.[38] When death from cardiovascular disease was suspected, we requested permission to review the medical records. A death was designated as due to coronary heart disease if it involved a confirmed fatal myocardial infarction or if the woman was known to have had coronary heart disease and coronary disease was listed as the underlying cause on the death certificate without another, more plausible cause. In no case did we rely solely on the listing of a cause on the death certificate as confirmation of death from coronary disease. Since sudden death in women can often occur without coronary disease, we excluded 26 cases of sudden death—i.e., death within one hour of the onset of symptoms in an apparently healthy woman without other evidence of coronary disease.

Although the primary a priori end point was major coronary disease (defined as nonfatal myocardial infarction or death due to coronary disease), we also assessed other cardiovascular events. We considered as one category coronary-artery surgery (bypass or angioplasty), on the basis of reports by the women.

Strokes were confirmed by medical records and classified, according to the criteria of the National Survey of Stroke, as ischemic strokes (embolic or thrombotic), subarachnoid hemorrhages, intracerebral hemorrhages, or strokes of unknown cause.[39] We included strokes that required hospitalization and were corroborated by information in a letter or interview, and fatal strokes that could be confirmed by medical records, other reliable information, or a death certificate.

STATISTICAL ANALYSIS

The primary analysis was based on incidence rates. For all women, person-months were allocated according to the exposure variables on the most recent questionnaire until death or an end point was reached, or until May 31, 1988. We used information on the intake of vitamin E in 1980 from dietary sources only. Height and parental history of myocardial infarction were both ascertained in 1976; all other exposures apart from diet, including the consumption of multivitamins and vitamin E supplements, were updated on each follow-up questionnaire.

To avoid a spurious finding due to the influence of disease on the use of vitamin supplements, women with a diagnosis of any cardiovascular disease or cancer (except nonmelanoma skin cancer) were excluded from further analysis. Because diet was not updated after 1980, the analyses of dietary vitamin E intake were based on women who did not have those diagnoses in 1980. In the analyses of the use of vitamin E supplements, for which data were updated biennially, women with new diagnoses of cardiovascular disease or cancer were excluded at the beginning of each two-year follow-up period. Thus, at the start of each such period, the base population included no women who reported these diagnoses.

For the analyses of total vitamin E intake, we divided the cohort according to quintiles based on intake, both with and without adjustment for total energy intake.[28] The relative risk was defined as the incidence in women in various categories of vitamin E intake (the number of end points divided by the person-time of follow-up in that category) divided by the corresponding rate for

Footnotes at end of article.

the women in the lowest category of intake. For the analyses of the use of vitamin E supplements, we compared users of such supplements with nonusers. Relative risks with 95 percent confidence intervals were adjusted for age in five-year categories, and tests for trend across fifths of the group were performed.[40] Stratified analyses that adjusted for age and one other variable at the same time were performed to assess possible effect modification and confounding. To adjust simultaneously for multiple risk factors, proportional-hazards models[41] were employed with vitamin E supplements used as a time-dependent variable. All P values were two-tailed.

RESULTS

During 679,485 person-years of follow-up from 1980 to 1988, 552 cases of major coronary disease were documented: 437 nonfatal myocardial infarctions (360 confirmed and 77 probable) and 115 confirmed deaths from coronary disease. Because there were no material differences in any analyses between fatal and nonfatal outcomes or in the results when the probable cases were excluded, these have been combined into a single category. Analyses with or without adjustment for total energy intake yielded very similar results; for simplicity, therefore, only the unadjusted results are shown. We observed a pronounced and statistically significant reduction in the risk of major coronary disease among women with a high intake of vitamin E, as compared with those with a low intake. After adjustment for age and smoking status, the relative risk for those in the highest fifth of intake was 0.66 (95 percent confidence interval, 0.50 to 0.87), as compared with those in the lowest fifth. The apparent benefit was attributable mainly to the use of vitamin E from supplements, because high levels of intake from dietary sources were not associated with significant reductions in risk. Even the highest levels of dietary intake of vitamin E were far lower, however, than the intake among supplement users. Analyses adjusting for age and smoking status (Table 1) showed even more clearly that the lower risk of coronary disease was associated primarily with the intake of vitamin E from supplements rather than from the diet. Subsequent analyses therefore focused on vitamin E supplementation.

The amount of vitamin E in multivitamins is typically 30 IU or less, whereas specific vitamin E supplements usually contain 100 IU or more. After adjustment for age and smoking status in separate stratified analyses, both vitamin E supplements and multivitamins were associated with a lower risk of major coronary disease. The relative risk for women who took multivitamins was 0.78 (95 percent confidence interval, 0.64 to 0.96), and for those who took vitamin E supplements it was 0.57 (95 percent confidence interval, 0.41 to 0.78), as compared with the risk in those who took neither.

The women who took multivitamins or vitamin E supplements differed somewhat from those who took neither. The age-standardized percentages and means for various known or suspected coronary risk factors, according to the use of multivitamins or vitamin E. Among women who took supplements there was a higher proportion of postmenopausal hormone users, vigorous exercisers, and nonsmokers. The magnitude of the overall differences was modest, however. For example, the 5.2 percent difference in hormone use between women who took both multivitamins and vitamin E supplements and those who took neither would account for a risk reduction of just 2.5 percent[24]

The multivariate models that controlled simultaneously for risk factors including age, body-mass index, smoking status, alcohol intake, menopausal status, postmenopausal hormone use, vigorous activity, regular use of aspirin, hypertension, high cholesterol level, diabetes, total energy intake, use of vitamin E supplements, and use of multivitamin supplements. The relative risk associated with the use of specific vitamin E supplements was 0.63 (95 percent confidence interval, 0.45 to 0.88). Those who took multivitamins were also at lower risk, although this association was not statistically significant.

Because users of both vitamin E and multivitamin supplements had a somewhat higher intake of other antioxidant nutrients, we repeated the multivariate analyses and controlled for the intake of catotene and vitamin C (including that consumed as supplements). This adjustment slightly attenuated the apparent benefit of vitamin E, but the association remained statistically significant with a relative risk of 0.69 (95 percent confidence interval, 0.49 to 0.97).

The best evidence for a mechanism by which vitamin E could reduce coronary disease is of a reduction in atherosclerosis. We therefore reasoned that the short-term use of vitamin E supplements would be associated with little reduction in risk. Users of vitamin E for less than two years had no significant reductions in risk, with a relative risk of 0.86 (95 percent confidence interval, 0.52 to 1.43). Use of vitamin E for two or more years, however, was associated with a decrease in risk of 41 percent (62 to 9 percent) even after adjustment for the intake of other antioxidants. We found no significant trend toward lower risk for periods of more than two years, but because of the small numbers of long-term users, we had little statistical power to detect such a trend if one were present. Users of vitamin E for 15 or more years had a relative risk of 0.59 (95 percent confidence interval, 0.14 to 2.39).

When we adjusted for coronary risk factors and excluded women who used vitamin E supplements for less than two weeks, we found that a dose of less than 100 IU per day was associated with little or no apparent benefit, but the confidence intervals were broad; the relative risk was 0.93 (95 percent confidence interval, 0.23 to 3.75). There was no suggestion of a trend toward a greater decrease in risk with higher daily doses; the relative risks were 0.56 (95 percent confidence interval, 0.21 to 1.51) for doses of 100 to 250 IU per day, 0.56 (95 percent confidence interval, 0.33 to 0.96) for doses of 300 to 500 IU per day, and 0.58 (95 percent confidence interval, 0.24 to 1.42) for doses of 600 or more IU per day.

To distinguish further the effect of vitamin E supplements from that of multivitamins, we compared the risk among women who used only vitamin E supplements, women who used only multivitamins, women who used both, and women who used neither (the reference group). After omitting women who used vitamin E supplements in low doses and for short periods and adjusting for the factors we found a relative risk of 0.41 (95 percent confidence interval, 0.18 or 0.93) for users of vitamin E supplements only, 0.87 (95 percent confidence interval, 0.69 to 1.09) for users of multivitamins only, and 0.50 (95 percent confidence interval, 0.31 to 0.83) for users of both. In separate multivariate analyses, the relative risk for specific vitamin E use among the multivitamin users was 0.58 (95 percent confidence interval, 0.35 to 0.97); among nonusers of multivitamins, it was 0.46 (95 percent confidence interval, 0.22 to 0.98).

We observed no marked differences between subgroups with respect to the association of vitamin E supplements with lower risk. Some investigators have suggested that antioxidants might be more important among cigarette smokers, but we found similar reductions in risk among vitamin E users who smoked (relative risk, 0.55; 95 percent confidence interval, 0.30 to 1.02) and those who did not (relative risk, 0.52; 95 percent confidence interval, 0.29 to 0.90). Adjustment for the intake of saturated, monounsaturated, or polyunsaturated fat and analyses of different categories of fat intake had no material effect. Because the diagnosis of diabetes or high cholesterol level could alter diet, we performed analyses in which women with those conditions were excluded; we also performed analyses in which there was no exclusion for prevalent disease at the base line of each two-year follow-up period. The findings from these alternate analyses were virtually the same as those for the whole cohort.

In further analyses, we explored the effect of vitamin E supplementation on other cardiovascular outcomes and overall mortality. For none of the categories, including overall mortality, was the association as pronounced as for major coronary disease, which was a priori the main hypothesis. However, there were suggestive trends for all the outcomes.

DISCUSSION

In this large prospective study, we observed a risk of major coronary disease among women who took vitamin E supplements that was about 40 percent lower than the risk in women who did not take these supplements; this association changed little after adjustment for coronary risk factors and the intake of other dietary antioxidants. The prospective study design eliminated the potential for biased recall of vitamin E use, and because the follow-up rate was high, it is unlikely that differential follow-up could have affected the results materially.

Information on vitamin use and other potential risk factors was reported by the women, but we believe it to be reliable. Reports of various conditions have been validated by review of the medical records and by direct measurement.[27,42] Also, the risk factors reported by the women were strong predictors of subsequent cardiovascular disease,[24,43-45] and all the participants were registered nurses with a demonstrated interest in medical research.

Perhaps healthier women select themselves for vitamin supplementation. Nurses who took vitamin E had a somewhat better risk profile than those who did not, but the differences were not striking. Adjustment for a wide range of risk factors had only a modest effect on the estimates of relative risk (from 0.61 to 0.63); suggesting only minor confounding by the risk factors measured. Some unmeasured factor might be a confounding variable, but it would have to be both highly associated with use of vitamin E supplements and a very strong risk factor to explain these results.

Although we cannot rule out such self-selection as an explanation, other lines of evidence also support a cause-and-effect relation. If self-selection were the entire explanation, one would expect to have observed a similar apparent benefit among short-term users of vitamin E and users of other vitamin supplements, such as multivitamins and vitamin C. In multivariate analyses, a significant risk reduction was observed for vitamin E, but not for multivitamin supplements. Also, further analysis indicated a

lower risk among the women who took vitamin E, but not among those who took vitamin C, even in the highest quintile, which included only users of specific vitamin C supplements. We had insufficient statistical power to test adequately for a trend toward increased protection with longer use. The lack of a dose-response association is not surprising, because blood levels do not rise in a linear fashion with increasing doses of vitamin E.[36] The modest trends toward reduced risk among users of multivitamins may possibly be explained by an effect of folate and vitamin $B_6$ to reduce otherwise elevated levels of homocyst(e)ine in a subgroup.[46]

As with postmenopausal estrogens,[24] we did not observe the same magnitude of effect of vitamin E on cardiovascular outcomes other than major coronary disease. Although the findings were not statistically significant, there were trends toward a reduction in the risk of mortality from cardiovascular causes, ischemic stroke, coronary-artery surgery, and overall mortality.

A benefit of vitamin E in reducing the risk of major coronary heart disease is plausible because of the substantial evidence indicating the importance of oxidation of LDL in atherosclerosis.[1-3,47,48] No association was observed between plasma levels of vitamin E and resistance to LDL oxidation among nonusers of supplements, but vitamin E supplementation markedly increased the resistance.[18] This finding is consistent with our results in suggesting that supplementation at levels far higher than those achievable by diet alone may be needed to reduce LDL oxidation. In a randomized trial in monkeys fed an atherogenic diet, animals given vitamin E supplements had less arterial stenosis than those given placebo,[49] but the study was small and the results somewhat inconsistent.

Epidemiologic data on this research question are sparse. Gey et al. observed that in regions of Europe with high rates of coronary disease, the mean plasma levels of vitamin E were lower than in other regions,[50] but this association could also be due to other differences. Although Salonen et al. found no association between plasma levels of vitamin E and coronary disease,[51] there were few users of vitamin E supplements in the population. In a case-control study of angina, Riemersma et al.[52] observed a statistically significant relative risk of 0.37 when the highest and the lowest quintiles for plasma vitamin E intake were compared; no significant associations were seen for plasma levels of vitamin C or carotene. In a small, four-month randomized trial of vitamin E among patients undergoing angioplasty, restenosis was reduced by 25 percent in the treatment group, but the result was not statistically significant.[21]

Rimm et al.[53] have reported findings in men that were very similar to those we observed, using a similar prospective design. As in our study, those findings could not be explained by confounding by other coronary risk factors or dietary variables.

Although we cannot exclude the possibility of residual confounding, the consistency of our findings, the biologic plausibility, and the similar results from another prospective cohort[53] all support the possibility of a casual explanation and suggest that vitamin E supplements may reduce the risk of coronary heart disease. Randomized trials of adequate size in secondary and primary prevention will be needed to test this question.[3] Because vitamin E appears not to be toxic, even in high doses,[54] such trials, notably the Women's Health Study,[55] have been initiated. Public policy recommendations about the widespread use of vitamin E should await the results of these trials.

We are indebted to the participants in the Nurses' Health Study for their continuing outstanding level of cooperation; to Frank E. Speizer, M.D., overall principal investigator for the study; and to Mark Shneyder, Stefanie Bechtel, Gary Chase, Karen Corsano, Kate Saunders, Lisa Dunn, Barbara Egan, Lori Ward, and Marion McPhee for their unfailing help.

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## VITAMIN E CONSUMPTION AND THE RISK OF CORONARY HEART DISEASE IN MEN

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Antioxidants such as vitamin C, carotenoids, and vitamin E[1,2] are hypothesized to help prevent atherosclerosis by blocking the oxidative modication of low-density lipoprotein (LDL), which may be selectively incorporated by monocytes in the arterial wall.[3,4] Oxidized LDL may also contribute to atherogenicity by reducing macrophage motility in the intima,[5] increasing monocyte accumulation,[6] and increasing cytotoxicity.[7]

Footnotes at end of article.

Accumulating laboratory data support a link between dietary antioxidants and a reduced risk of atherosclerosis, but epidemiologic evidence is limited.[8–10] We therefore examined these relations in men enrolled in the Health Professionals Follow-Up Study.

### METHODS

The Health Professionals Follow-up Study is a prospective investigation of 51,529 male health professionals who were 40 to 75 years of age in 1986. The study population included 29,683 dentists, 10,098 veterinarians, 4185 pharmacists, 3745 optometrists, 2218 osteopathic physicians, and 1600 podiatrists. The study began in 1986, when the participants completed a detailed questionnaire on diet and medical history. We mailed follow-up questionnaires in 1988 and 1990 to update information on exposure and to ascertain events related to newly diagnosed coronary disease.[11,12]

We used a priori criteria to exclude from the study 1530 men whose reported daily energy intake was outside the range of 800 to 4200 kcal or who left blank 70 or more questions about food on the dietary questionnaire. Because men with cardiovascular disease or related conditions may alter their dietary patterns after diagnosis, we excluded a further 10,089 men who reported myocardial infarction, angina, stroke, coronary-artery bypass grafting or angioplasty, diabetes, or hypercholesterolemia on the base-line 1986 questionnaire. The 39,910 remaining men were eligible for follow-up.

After repeated mailings, we received questionnaires from or confirmed the deaths of over 96 percent of eligible participants in 1988 and 1990.[13] The remaining nonresponding participants were assumed to be alive if they were not listed in the National Death Index.

### DIETARY ASSESSMENT

The 1986 dietary questionnaire inquired about the average frequency of intake of 131 foods over the previous year. Ten additional items specifically addressed the current use of vitamin supplements, including the type, dose, and duration. Although we have no information on the specific forms of vitamin E supplements (natural vs. synthetic), we did ask the participants to identify specific brands of multivitamins, cooking oils, and cold cereals. Nutrient intakes were computed by multiplying the frequency with which each food item or supplement was consumed by its nutrient content, derived primarily from information from the Department of Agriculture,[14] for the portion size or dose listed.[15–17] We calculated nutrient scores for both dietary and supplementary intake, except in the case of carotene, for which only the total intake was calculated, because only 2.2 percent of the men reported taking carotene supplements. Carotene intake was calculated on the basis of the values for vitamin A in vegetables and fruits and the one third of vitamin A from dairy products that is in the form of carotene.[14] We assigned a value of 10,000 IU for men who reported taking carotene supplements.

We assessed the validity of the food-frequency questionnaire in a random sample of 127 men living in the Boston area. We compared nutrient intake as specified on the questionnaire with two one-week diet records spaced approximately six months apart.[16–18] Pearson correlation coefficients between the diet records and the dietary questionnaire were adjusted for total energy intake[19] and for within-person variability in reported daily intake.[20] The adjusted correlation coefficients were 0.64 for carotene, 0.92 for total vitamin C, and 0.92 for total vitamin E. For men not taking supplements, the coefficients were lower: 0.77 for vitamin C and 0.42 for vitamin E.[16]

### CASE ASCERTAINMENT

Fatal coronary disease, nonfatal myocardial infarction, coronary-artery bypass grafting, and percutaneous transluminal coronary angioplasty occurring between 1986 and January 31, 1990, were considered as end points. Participants who reported an incident myocardial infarction on the 1988 or the 1990 questionnaire were sent a letter asking them to confirm the report and requesting permission to review the medical records. Myocardial infarctions were confirmed with use of the criteria of the World Health Organization[21]: compatible symptoms plus either typical electrocardiographic changes or elevation of cardiac enzymes. We classified 3 percent of the fatal and 18 percent of the nonfatal myocardial infarctions as "probable" because the medical records were unobtainable although the diagnosis was corroborated by supplementary information. Reports of bypass grafting or angioplasty were confirmed by medical records for 98 of 102 participants (96 percent). Therefore, participants' own reports of these end points were considered sufficient for confirmation.

Deaths were reported by next of kin, coworkers, postal authorities, or the National Death Index. Fatal infarctions were confirmed from medical records or autopsy reports. Fatal coronary disease was also considered confirmed if it was listed as the underlying cause on the death certificate, and a diagnosis of incident coronary disease (after January 1, 1986) was confirmed on the basis of records or interviews. The listing of a cause of death on the death certificate was not accepted in itself as confirming fatal coronary disease. Sudden death was defined as death within one hour of the onset of symptoms in men who had no previous serious illness or plausible cause of death other than coronary disease. Because in men sudden death is generally attributable to coronary disease, we included such deaths (for 33 men) as indicative of fatal coronary disease. When subjects had multiple end points, only the first was included in the analysis. The physicians reviewing the medical records were unaware of the reports of dietary intake.

### STATISTICAL ANALYSIS

Each participant's follow-up time began with the date of return of the 1986 questionnaire and continued until the diagnosis of an end point, death, or January 31, 1990, whichever came first. Relative risks were calculated by dividing the incidence rate of coronary disease among the men in each category of antioxidant intake by the rate for the men in the lowest category. Adjusted relative risks for age (in five-year categories) were derived by the Mantel-Haenszel method.[22] The Mantel extension test[23] was used to test for linear trends. To adjust for other risk factors, we used multiple logistic regression to generate odds ratios as an estimate of relative risk. In multivariate logistic models, we tested for significant monotonic trends by assigning each participant the median value for the category and modeling this value as a continuous variable. All P values are two-sided.

### RESULTS

During 139,883 person-years of follow-up, we documented 667 coronary end points: 360 bypass grafts or angioplasties, 201 nonfatal myocardial infarctions, and 106 fatal coronary events.

The age-adjusted and multivariate relative risks of coronary disease according to quintile group for the intake of vitamin E, carotene, and vitamin C (including supplements). As compared with the men in the lowest quintile group for vitamin E intake, the men in the highest quintile group had an age-adjusted relative risk of coronary disease of 0.59 (95 percent confidence interval, 0.47 to 0.75; P for trend = 0.01). The relative risks were similar after multivariate adjustment. For a high intake of carotene, the age-adjusted relative risk of coronary disease was 0.71 (95 percent confidence interval, 0.55 to 0.92; P for trend = 0.02). The relative risks for carotene were also not materially altered by multivariate adjustment. A high intake of vitamin C was initially suggestive of a slight inverse association (age-adjusted relative risk, 0.83; 95 percent confidence interval, 0.64 to 1.08). After further adjustment for risk factors and the use of other antioxidants, however, the relative risk was 1.25 (95 percent confidence interval, 0.91 to 1.71; P for trend=0.98).

All the participants in the two highest quintile groups for vitamin E intake used multivitamins or specific vitamin E supplements. We suspected that these men might differ substantially from those who did not take supplements, and we therefore examined the distribution of risk factors according to quintile group for total vitamin E consumption. The prevalence of hypertension and the percentage of calories derived from fat were similar. Differences in the intake of dietary fiber, cholesterol, and total fat were generally proportional to absolute differences in caloric intake and were not due

to differences in dietary composition. However, because patterns of smoking, fiber intake, aspirin use, and physical activity were different, we controlled for these variables in all the multi-variate analyses.

When the 5804 men with baseline hypercholesterolemia or diabetes were included, the results were not appreciably different.

Also, there were no material differences between the specific diagnostic categories. For fatal coronary disease or nonfatal myocardial infarction, the multivariate relative risk between the highest and lowest quintile groups for vitamin E intake was 0.63 (95 percent confidence interval, 0.45 to 0.89), and for bypass grafting or angioplasty the relative risk was 0.68 (95 percent confidence interval, 0.48 to 0.97). The corresponding results for carotene and vitamin C were also similar.

Excluding probable cases of myocardial infarcation did not alter these results appreciably.

To assess further the role of vitamin E supplements, we divided total intake into dietary and supplemental sources. Quintiles of dietary vitamin E were calculated on the basis of dietary intake without supplements, whereas the dose categories for supplemental vitamin E were those specified in the base-line questionnaire. The two lowest categories of supplement use represent men who reported using multiple vitamins or using vitamin E supplements infrequently. Among men taking any supplemental vitamin E, we found only a modest inverse association between the dose and the risk of coronary disease (P for trend=0.22). The maximal reduction in risk was seen among men consuming 100 to 249 IU per day, with no further decrease at higher doses. We found a suggestion of an inverse association between dietary vitamin E and the risk of coronary disease among men who did not take vitamin supplements, with a relative risk of 0.79 (95 percent confidence interval, 0.54 to 1.15) for the highest as compared with the lowest quintile group (P for trend=0.11). The variation in dietary vitamin E intake was much lower than the variation in intake from supplements; the median of the highest quintile group for dietary intake (12.9 IU per day) fell within the lowest category of supplemental intake. We also examined the association between the duration of vitamin use and the risk of coronary disease. Using the categories for the duration of vitamin use that appeared on the base-line questionnaire (0 to 1, 2 to 4, 5 to 9, and 10 or more years), we found a suggestion of an inverse trend between the duration of vitamin E use and the risk of coronary disease. Men reporting use of vitamin E supplements for 10 or more years had a relative risk of 0.65 (95 percent confidence interval, 0.46 to 0.92) as compared with nonusers.

The multivariate relative risk of coronary disease among men taking specific vitamin E supplements (i.e. not multivitamins) was 0.75 (95 percent confidence interval, 0.61 to 0.93) as compared with nonusers. Among men who took vitamin E supplements in doses of at least 100 IU per day for two or more years the relative risk was 0.63 (95 percent confidence interval, 0.47 to 0.84) as compared with nonusers after we controlled for multivitamin use.

The relative risk of coronary disease in men taking 100 or more IU per day of vitamin E for two or more years, as compared with nonusers of supplements, ranged from 0.57 to 0.67 in multivariate analyses after we controlled separately for quintile groups for the intake (from dietary sources and supplements combined) of retinol; vitamins $B_1$, $B_2$, $B_6$, $B_{12}$, C, and D; and calcium, folate, niacin, iron, magnesium, and zinc. Whereas the relative risks associated with vitamin E remained significant in each model, those comparing the highest with the lowest quintile groups for the other nutrients were not statistically significant.

The reduction in the risk of coronary disease associated with the highest quintile group for total vitamin E intake was somewhat less among current smokers (relative risk, 0.67; 95 percent confidence interval, 0.34 to 1.31) than among those who had never smoked (relative risk, 0.52; 95 percent confidence interval, 0.34 to 0.78). The inverse association was not appreciably modified by age, family history of myocardial infarction, or dietary intake of alcohol, carotene, vitamin C, polyunsaturated fat, total fat, magnesium, or iron.

In our analysis of overall mortality (in 578 men), the relative risk was 0.78 (95 percent confidence interval, 0.60 to 1.01; P for trend=0.06) when we compared the highest and lowest quintile groups for vitamin E intake. Mortality during the first four years of follow-up of a healthy population is skewed toward death from sudden causes, such as trauma, and diseases with a delayed time to death are underrepresented.

The association between dietary carotene and the risk of coronary disease differed significantly according to base-line smoking status. Among men who had never smoked, no association was observed. We did, however, find a significant inverse association between carotene intake and coronary disease among current and former smokers. Among current smokers, the relative risk was 0.30 (95 percent confidence interval, 0.11 to 0.82) when the highest and lowest quintile groups for intake were compared; among former smokers, the risk was 0.60 (95 percent confidence interval, 0.38 to 0.94). The reduction in risk among current smokers was significant even in the third quintile group for dietary carotene intake (whose intake was equivalent to half a carrot per day).

DISCUSSION

These data are compatible with the hypothesis that an increased intake of antioxidants, primarily as vitamin E, but also as dietary carotene in former and current smokers, is associated with a reduced risk of coronary disease. Although we cannot exclude the possibility that an unknown variable associated with high antioxidant intake is responsible for the reduction in coronary disease, the lack of a significant association of coronary disease and other micronutrients (e.g., vitamin C) consumed as either diet or supplements suggests a causal interpretation.

The high rate of follow-up reduced potential bias due to loss to follow-up, and because dietary information was collected prospectively, we eliminated recall bias. To reduce the possibility of bias associated with recent dietary changes related to disease, we excluded men with coronary disease, diabetes, or high cholesterol levels at base line. The finding that the apparent benefit of vitamin E supplements was stronger with longer-term use is further evidence of a specific effect rather than simply self-selection.

Men with a higher intake of vitamin E have somewhat healthier risk profiles. After we controlled for this health-conscious behavior however, a strong protective association with vitamin E intake persisted. Any remaining residual confounding would need to be large to explain the relative risk we observed. Serum lipids were not measured in the total cohort and could potentially be confounding variables. In a subsample of participants,[16] however, vitamin E intake was not correlated with either total or high-density lipoprotein cholesterol (r=−0.02 for both). In studies of vitamin E supplementation, vitamin E did not alter blood lipid levels.[24,25] Hence, confounding according to lipid level is an unlikely explanation of our results. If uncontrolled confounding explains the inverse association for vitamin E, we would expect a similar effect of vitamin C, which was similarly associated with a healthier lifestyle (data not shown). After adjustment for vitamin E, however, vitamin C was not associated with a reduction in coronary disease, a result that supported a specific effect of vitamin E.

Our findings for vitamin E are consistent with geographic correlations between serum vitamin E levels and coronary mortality rates[8] and reduced serum levels of alpha-tocopherol (the principal component of vitamin E) in patients with angina.[26] Most notably, the associations we found for vitamin E supplements were remarkably similar to those found among women in the Nurses' Health Study.[27] Vitamin E appeared to reduce atherosclerosis in a small experiment in monkeys[28] and to decrease the rate of restenosis among patients after angioplasty.[29] Little difference in vitamin E levels was seen, however, between persons with and persons without myocardial infarction when measurements were made in previously collected and stored serum samples.[30-32] These studies may have failed to find differences in serum alpha-tocopherol levels for several reasons: because few participants used supplements, because a single measurement cannot distinguish between short- and long-term supplement use, and because the degradation of alphatocopherol in stored samples[4] reduces the overall variation. Alternatively, intracellular antioxidant levels may be more important than serum levels in inhibiting the cell-mediated oxidation of LDL.[33]

In addition to the strong association with vitamin E supplements, we found a moderate reduction in the rise of coronary disease with increasing intake of non-supplemental dietary vitamin E. The primary sources of dietary vitamin E are vegetable oils and to a lesser extent seeds, cereal grains and nuts. Although we incorporated information on specific brands of margarines and cooking oils into the dietary intake scores, the vitamin E content of foods is dependent on cooking, processing, and storage.[34] Limited variability in dietary vitamin E intake and error in measurement due to the instability of vitamin E may have obscured a stronger inverse association. In a subsample of 121 men in our study, we found only a weak partial correlation (r=0.11) between dietary vitamin E and serum alpha-tocopherol levels, which was greatly enhanced (r=0.51) after the inclusion of vitamin E from supplements * * * vitamin E alone and coronary disease is consistent with experimental evidence in which the resistance of LDL to oxidation[35-38] is increased only by supplemental vitamin E intake at levels 10 to 100 times the standard recommended dietary allowance.[39] Supplementation at this level has been shown to be nontoxic over a moderate follow-up period.[40]

With regard to carotene, in a cohort of 1299 elderly Massachusetts residents followed for 4.75 years, Gaziano et al. found a relative risk of 0.55 (95 percent confidence interval, 0.34 to 0.87) for death from cardiovascular causes when the highest and the lowest quartile groups for intake were compared.[10] In a

preliminary report from the ongoing Physicians' Health Study trial, men with angina who were randomly assigned to receive beta carotene had fewer subsequent cardiovascular events than those assigned to placebo.[41]

We and others have reported lower levels of plasma carotene (but not alpha-tocopherol)[1,2,26,35,42] among smokers. The increased oxidative stress brought on by smoking may increase the susceptibility of lipids to oxidation[43-46] and increase the demand for plasma antioxidants to quench oxygen free radicals.

Vitamin C preserves the endogenous antioxidants[47] and quenches oxidants in hydrophilic environments.[48] Much of the oxidation of LDL particles, however, occurs in the subendothelial space, a hydrophobic environment that favors a protective effect of fat-soluble vitamins (vitamin E or carotene) over water-soluble vitamins (vitamin C).[49]

Cross-cultural data suggest that men in countries with higher rates of mortality from coronary causes have, on average, plasma vitamin C levels that border on being deficient.[8] Because the median of the lowest quintile group for dietary vitamin C intake was 78 mg per day in our study (recommended daily allowance, 60 mg),[39] we could not test this hypothesis.

In the follow-up of the cohort in the first National Health and Nutrition Examination Survey,[9] men reporting an intake of 50 mg or more of vitamin C per day (including supplements) had a standardized mortality ratio of 0.58 for all cardiovascular disease. However, vitamin C from diet alone was not appreciably related to cardiovascular disease. Hence, the effect appears to be explained by the use of vitamin supplements, and perhaps not specifically those of vitamin C, because the authors did not account for vitamin E use.

We found an inverse association between vitamin E intake and coronary disease that was weak at best when only dietary sources were taken into account. At the higher levels of intake reached with supplementation, the association became significant. We cannot rule out the possibility that confounding may partly account for our results; a cause-and-effect relation cannot be established from these observational data. However, these findings, together with similar findings in women,[27] support the hypothesis that supplemental vitamin E may reduce the risk of coronary disease. Public policy recommendations about the use of vitamin E supplements should await the results of additional studies.

We are indebted to the participants of the Health Professionals Follow-up Study for their continued cooperation and participation; to Al Wing, Karen Corsano, Mira Koyfman, and Steve Stuart for computer assistance; and to Mary Johnson, Betsy Frost-Hawes, Kerry Pillsworth, Mitzi Wolff, Jan Vomacka, and Cindy Dyer for their assistance in the compilation of the data and the preparation of the manuscript.

FOOTNOTES

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ANTIOXIDANT VITAMINS AND CORONARY HEART DISEASE

This issue of the Journal contains two important reports of large-scale prospective studies, one in men[1] and one in women,[2] showing that the use of large doses of vitamin E supplements is associated with a significantly decreased risk of coronary heart disease. The study populations were enormous—almost 40,000 men and more than 80,000 women—and the participants were followed for four and eight years, respectively. The studies were very carefully conducted: there was more then 95 percent follow-up,

independent validation of the dietary questionnaires, and careful documentation of end points. In both studies the benefit of vitamin E was largely, if not entirely, confined to the subgroup of the population taking large amounts of the supplements. In other words, within the range of vitamin E intakes afforded by natural foodstuffs, even when supplemented by multivitamins at usual doses, there was little or no protective effect. The data on vitamin C intake were essentially negative in both studies and were thus at variance with the findings of Enstrom et al.,[3] who showed that in a comparably large population (more than 11,000 men), both mortality from coronary heart disease and overall mortality were inversely correlated with vitamin C intake. In men who smoked, carotene intake was associated with a lower risk of coronary heart disease in the Health Professionals Follow-up Study,[1] but it had no apparent effect on risk in the Nurses' Health Study.[2]

In both studies, the authors address the important issue of possible confounding variables. Thus, the possibility of self-selection among the subjects taking vitamin supplements was considered. Indeed, the men in the upper fifth of the group in terms of vitamin E intake did exercise more and were more likely to take aspirin. Controlling for these variables by multivariate logistic-regression analysis did not greatly affect the conclusions, however. Moreover, the authors point out that those who took vitamin C supplements did not have less coronary disease, suggesting that health consciousness itself is not enough to explain the association. Unfortunately, information about plasma cholesterol levels was not available in either study (the subjects could only report "high cholesterol" on a written questionnaire). Nevertheless, these two large epidemiologic studies add support to the hypothesis that oxidation of lipoproteins plays a part in atherogenesis.

Epidemiologic correlations alone, no matter how high the level of statistical significance, cannot establish causal relations, as the authors of these papers recognize. The probability that the relation is a causal one remains a matter of judgment. That judgment will be affected by the strength of the relation, its consistency, its biologic plausibility, and other criteria. However, there is no prescribed, objective way to quantify the relation. In this discussion I shall address, first, the issue of biologic plausibility and, second, the possible implications of these new results with regard to clinical management and future research.

Our research group has recently proposed the hypothesis that low-density lipoprotein (LDL) that has undergone oxidative damage is considerably more atherogenic than native LDL.[4] A key point is that oxidized LDL particles (and certain other modified forms of LDL) are ligands for the "scavenger" receptors on macrophages and can therefore convert them to the cholesterol-loaded foam cells characteristic of the earliest atherosclerotic lesions, the fatty streaks.[5-8] But this is only one of a growing list of biologic properties of oxidized LDL that make it more atherogenic than native LDL. Among the others are its chemoattractant action on monocytes, its cytotoxicity, its ability to stimulate the release of growth factors and cytokines, and its ability to act as an immunogen. There is now strong evidence that oxidation of LDL does indeed occur in vivo, in both animals and humans.[9-10] That it has a causative role in experimental atherosclerosis has been shown by studies in animals that document a decrease of 30 to 80 percent in rates of lesion progression in the animals receiving antioxidants. These impressive results were obtained in the presence of plasma cholesterol levels ranging from 600 to 2000 mg per deciliter, even though the antioxidant-treated animals and the controls had comparable degrees of hypercholesterolemia.

There is understandable excitement among investigators about the possibility that antioxidants may represent a new preventive and therapeutic method, one that could take its place alongside cholesterol-lowering drugs. If the hypothesis is correct, the rate of progression of lesions would be a simultaneous function of the plasma levels of LDL and the rates at which LDL undergoes oxidative modification. The combination of LDL-lowering and antioxidant therapy should be additive or even synergistic. Some clinical studies are already under way, and definitive results could be available as early as three to five years from now. What do we do in the meantime? Should we recommend that our patients take antioxidant supplements?

The oxidative-modification hypothesis of atherogenesis has reached what we might call the awkward age: it has matured to the level of a hypothesis strongly supported by experimental and epidemiologic data, but it has not yet attained the status of a clinically validated hypothesis. If the only antioxidants available for clinical use had unacceptable side effects, I doubt that there would be much pressure at this time to start using them without waiting for clinical intervention trials to evaluate their benefits objectively. But the fact of the matter is that we do have available a number of natural antioxidants, including vitamin E, vitamin C, and beta carotene, that are generally considered not to be toxic. Consequently, we hear the seductive argument "Why not?" There are good reasons why not.

First, I think we must not make exceptions to the rule that recommendations to our patients must be backed by proof of a clear benefit to be conferred. Admittedly, "proof" turns out on closer inspection to be a relative term. How sure do we have to be fore we make recommendations? It should be noted that except for one small treatment study in primates involving vitamin E, we do not even have data demonstrating the efficacy of the natural antioxidant vitamins in animals; all the other studies in animals were done with antioxidant drugs. My own conviction is that proof must include at least some valid clinical intervention trials demonstrating the magnitude of the benefit to be obtained in humans. No such data are available, except for a preliminary presentation by Gaziano and coworkers of an interim analysis of results in a subgroup of men in the Physicians' Health Survey.[11] A primary hypothesis of that study was that beta carotene would be anticarcinogenic, but in view of the growing evidence that lipid oxidation may play a part in atherogenesis, it was decided to do a preliminary analysis looking for effects on coronary heart disease in a subgroup of subjects. That subgroup of 333 men already had clinical evidence of coronary heart disease when the study began. Those taking beta carotene had about 40 percent fewer cardiovascular events, and the difference was statistically significant. Unfortunately, the complete data from this potentially exciting study will not be reported for another three or four years.

A second reason for rejecting the "Why not?" argument is that we do not have data showing that the long-term (and presumably lifetime) intake of very large doses of natural antioxidants will not be toxic. Studies in humans have rarely gone beyond six months and have never involved thousands of subjects. Are we really sure that 500 or 1000 IU of vitamin E daily carries no risk over a five-year period? A 20-year period? Having inadequate data on the benefit to be expected, we should hesitate to accept any potential risk.

Finally, before we lend our imprimatur to the wide-spread use of a still unproved treatment, one that requires the patient only to pop a few pills, we should ask how many patients will slack off on their adherence to better-established, but somewhat more onerous, preventive measures such as a cholesterol-lowering diet, regular exercise, and smoking cessation.

We face a cruel ethical dilemma with hypotheses at this awkward age. If antioxidant treatment is highly effective, clinical trials now in progress or in the planning stages could give us definitive answers in just a few years.[11,12] On the other hand, reaching a consensus on the pathogenetic importance of oxidized LDL—and thus on the value of antioxidant therapy—may not be any easier than it was to reach a consensus on the importance of an elevated plasma cholesterol level as a risk factor for coronary heart disease. Meanwhile, I think we must play by the rules and insist on large, long-term, double-blind clinical trials. Until they are done, please, let's hold the vitamin E.

Footnotes at end of article.

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RECOMMENDATIONS FOR THE USE OF FOLIC ACID TO REDUCE THE NUMBER OF CASES OF SPINA BIFIDA AND OTHER NEURAL TUBE DEFECTS

SUMMARY

Spina bifida and anencephaly are common and serious birth defects. Available evidence indicates that 0.4 mg (400 µg) per day of folic acid, one of the B vitamins, will reduce the number of cases of neural tube defects (NTDs). In order to reduce the frequency of NTDs and their resulting disability, the United States Public Health Service" recommends that:

All women of childbearing age in the United States who are capable of becoming pregnant should consume 0.4 mg of folic acid per day for the purpose of reducing their risk of having a pregnancy affected with spina bifida or other NTDs. Because the effects of higher intakes are not well known but include complicating the diagnosis of vitamin $B_{12}$ deficiency, care should be taken to keep total folate consumption at <1 mg per day, except under the supervision of a physician. Women who have had a prior NTD-affected pregnancy are at high risk of having a subsequent affected pregnancy. When these women are planning to become pregnant they should consult their physicians for advice.

INTRODUCTION

Each year in the United States about 2,500 infants are born with neural tube defects (NTDs) spina bifida and anencephaly. In addition, an unknown number of fetuses affected by these birth defects are aborted. All infants with anencephaly die shortly after birth, whereas the majority of babies born with spina bifida grow to adulthood with, in severe cases, paralysis and varying degrees of bowel and bladder incontinence. The evidence that consumption of folic acid, one of the B vitamins, before conception and during early pregnancy (the periconceptional period) can reduce the number of NTDs that has been accumulating for several years. Published data are available from randomized controlled trials,.[1,2] nonrandomized intervention trials,[3,4] and observational studies[5,8] (Tables 1 and 2).

One of the most rigorously conducted studies was the randomized controlled trial sponsored by the British Medical Research Council (MRC).[2] The study showed that high-dose folic acid supplements (4.0 mg per day) used by women who had a prior NTD-affected pregnancy reduced the risk of having a subsequent NTD-affected pregnancy by 70%.

Preliminary results from the Hungarian randomized controlled trial of multivitamin/mineral supplementation (including 0.8 mg of folic acid) among women who had not had a prior NTD-affected pregnancy were reported in 1989.[9] This was stopped in May 1992 on the advice of an ad hoc scientific advisory committee because of evidence of an NTD-protective effect of the multivitamin/mineral preparation relative to the study placebo preparation (Czeizel AE: personal communication, May 1992).

Three of four published observational studies showed a lowered risk of NTDs for women who have not had a prior NTD-affected pregnancy and who consumed 0.4–0.8 mg (400–800 µg) of folic acid daily from multivitamin supplements (Tables 1 and 2).

In summary, the data available indicate that folic acid can help avert NTDs when given at high-dose levels (i.e., 4.0 mg per day). The results of the British MRC study showed that the addition of other vitamins to 4.0 mg of folic acid confers no extra benefit in averting NTDs. Based on a synthesis of information from several studies, including those which used multivitamins containing folic acid at a daily dose level of >0.4 mg, it was inferred that folic acid alone at levels of 0.4 mg per day will reduce the risk of NTDs. The protective effect found in the studies of lower-dose folic acid, measured by the reduction in NTD incidence, ranged from none to substantial (Tables 1 and 2); a reasonable estimate of the expected reduction in the United States is 50%. Thus there appear to be excellent prospects for substantially reducing the number of NTDs among U.S. women who have not had a prior NTD-effected pregnancy through the use of folic acid at intakes of approximately 0.4 mg daily.

RECOMMENDATIONS

Available evidence indicates that 0.4 mg (400 µg) per day of folic acid, one of the B vitamins, will reduce the number of cases of NTDs. In order to reduce the frequency of NTDs and their resulting disability, the United States Public Health Service recommends that:

All women of childbearing age in the United States who are capable of becoming pregnant should consume 0.4 mg of folic acid per day for the purpose of reducing their risk of having a pregnancy affected with spina bifida or other NTDs. Because the effects of high intakes are not well known but include complicating the diagnosis of vitamin $B_{12}$ deficiency, care should be taken to keep total folate consumption at <1 mg per day, except under the supervision of a physician. Women who have had a prior NTD-affected pregnancy are at high risk of having a subsequent affected pregnancy. When these women are planning to become pregnant, they should consult their physicians for advice.

COMMENT

The possibility for reducing by 50% the number of cases of spina bifida and other NTDs in the United States through daily consumption of 0.4 mg. of folic acid presents an important opportunity in public health. Efforts are now being made by the PHS to assure that all women capable of becoming pregnant consume 0.4 mg. of folic acid daily to achieve this goal.

There are three potential approaches for the delivery of folic acid to the general population in the dosage recommended: (a) improvement of dietary habits, (b) fortification of the U.S. food supply, and (c) use of dietary supplements. The Food and Drug Administration (FDA) will have to determine which approaches will best achieve the goal of increasing folic acid intake while ensuring that potential risks created by overfortification of food with folic acid, and thus overconsumption of this substance, are not reached. This process will require rulemaking and will include substantial efforts to involve the obstetrics community, other medical groups, the scientific community, consumers, industry, and other PHS agencies in a search for the best way to accomplish this goal. While this process is under way, and before the FDA issues final regulations on food fortification and permissible health claims on food labeling, further food fortification with folic acid would be inappropriate, and no health claims should be made.

Folate intake >0.4 mg per day can be obtained from the diet through careful selection of foods. Folate is a generic term for food compounds that have the biologic activity of folic acid; in general, folates obtained from foods are not as well absorbed as is folic acid. Although the average consumption of dietary folate by women in the United States has been estimated to be about 0.2 mg per day[10], women who select foods consistent with the U.S. Dietary Guidelines for Americans and the U.S. Dietary Pyramid are likely to consume diets containing >0.4 mg of folate daily. Use of currently available fortified foods, such as some breakfast cereals, can also provide important sources of folic acid.

Folic acid supplement pills containing 0.4 mg of folic acid also are available, as are multivitamin preparations containing folic acid. About 20% of U.S. women now consume multivitamin preparations, which generally contain 0.4 mg of folic acid.[11] Supplements for pregnant women generally contain up to 0.8 mg of folic acid.

Given these alternative routes for obtaining adequate amounts of folic acid, it is recommended that women be advised of the options available to them to obtain daily intakes of 0.4 mg of folic acid and be encouraged to meet this goal.

The research that serves as the basis for this recommendation generally focused on the use of supplements from at least 1 month before conception through early pregnancy, the periconceptional period. Development of the defect in the neural tube occurs within the first month after conception, before most women are aware of their pregnancy. Because >50% of pregnancies in the United States are unplanned.[12] It would be prudent for women to consume 0.4 mg of folic acid daily on a regular, continuous basis as long as they are capable of becoming pregnant.

Because supplements containing folic acid at the 0.4 mg level are widely available, this dosage has been the focus of the available observational research studies. It is possible that lower doses of folic acid may reduce the risk for NTDs, but further research would be needed to learn the minimum effective dose.

At this time, FDA allows food to be labeled according to the level of nutrients in the food relative to the U.S. Recommended Daily Allowances (USRDAs). Consumption of folic acid at USRDA-level doses (0.4 mg for nonpregnant women) is considered a safe and desirable practice. Over the years, RDAs have ranged from 0.18 to 0.4 mg of folic acid for women for childbearing age. RDAs for pregnant women have ranged from 0.4 to 0.8 mg per day. Folic acid is a water-soluble vitamin, and any excess consumed is rapidly excreted in the urine. The effects of higher doses are not well known, although they include complicating the diagnosis of vitamin $B_{12}$ deficiency in certain people.[13] Irreversible neurologic damage may occur if $B_{12}$ deficiency is not diagnosed and treated. Therefore, women should be careful to keep their total daily folate consumption at <1 mg per day. Women may wish to consult their physicians or other health-care providers (nutritionists, dietitians) about how to best obtain the recommended amount of folic acid, while avoiding excessive consumption. Caution should also be taken to prevent excessive use of multivitamin supplements or fortified foods containing vitamin A, since excess vitamin A may cause birth defects. Further research will be needed to identify any unknown adverse effects.

It is expected that consumption of adequate folic acid will avert some, but not all, NTDs. The underlying causes of NTDs are not known. Thus it is not known what proportion of NTDs will be averted by adequate folic acid consumption. From the available evidence, CDC estimates that there is the potential for averting 50% of cases that now

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occur. However, until further research is done, no firm estimate of this proportion will be available. Moreover, further research will be needed to identify the causes of NTDs that are not averted by folic acid intake.

The current recommendation is directed to all U.S. women, including women who have had a previous NTD-affected pregnancy. In August 1991, CDC issued a guideline[14] for women who have had a prior pregnancy affected by NTDs and who are planning to start a new pregnancy. The guideline called for the consumption of a 4.0-mg daily dose of folic acid, from at least 1 month before conception through the first 3 months of pregnancy. The guideline did not specifically address the issue of folic acid consumption among these women during the times when they are not planning to become pregnant. Women who have had an NTD-affected pregnancy should consume 0.4 mg of folic acid per day, unless they are planning a pregnancy. When these women are planning to become pregnant, they can follow the August 1991 guideline and consult their physicians about the desirability of using 4.0 mg of folic acid per day. Because 4.0 mg of folic acid per day is a very high dose, there may be risks associated with these levels. Although it appears that a lower dose, such as 0.4 mg, may have as great a beneficial effect as 4.0 mg, women who are at very high risk of having an NTD-affected pregnancy may choose to follow the August 1991 guideline (a) because it is based on data from the most rigorous study directly pertinent to their risk of NTDs and (b) because their risk of having an NTD-affected pregnancy may outweigh any risk that may occur as the result of the use of 4.0 mg of folic acid.

TABLE 1. INTERVENTION STUDIES OF FOLIC ACID AND NEURAL TUBE DEFECTS (NTDs)

| Study | Design | Subjects | Exposure | Results | Comments |
|---|---|---|---|---|---|
| Laurence, et al, 1981[1]. | Randomized controlled trial in Wales. | Pregnant women with prior NTD-affected pregnancy: Supplemented mothers took 4 mg of folic acid daily. Unsupplemented mothers took a placebo. | Supplemented women were given 4 mg of folic acid or placebo daily at least 1 month before conception through the 1st trimester. | 2 NTD-pregnancies among 60 supplemented women. 4 NTD-pregnancies among 51 placebo-treated women. Relative risk=0.40, not statistically significant. | 60 percent reduction in risk. |
| UK MRC study, 1991[2]. | Randomized controlled multicenter trial in UK and Hungary. | Pregnant women with prior NTD-affected pregnancy' Supplemented mothers took 4 mg of folic acid daily. Unsupplemented mothers took a placebo. | Women given 4 mg of folic acid or placebo daily at least 1 month before conception through the 1st trimester. | 6 NTD-pregnancies among 593 supplemented women. 21 NTD-pregnancies among 602 unsupplemented women. Relative risk=0.28, p<0.05. | 72 percent reduction in risk. |
| Srnithells, et al, 1983[3]. | Nonrandomized controlled multicanter trial in UK. | Pregnant women with prior NTD-affected pregnancy: Supplemented mothers took 0.36 mg of folic acid + multivitamins daily. Unsupplemented mothers took nothing. | Women given 0.36 mg of folic acid + multivitamins or reported no use from 1 month before conception through the 1st trimester. | 3 NTD-pregnancies among 454 supplemented women. 24 NTD-pregnancies among 519 unsupplemented women. Relative risk=0.14, p<0.05. | 88 percent reduction in risk. |
| Vergel, et al, 1991[4]. | Nonrandomized controlled trial in Cuba. | Pregnant women with prior NTD-affected pregnancy: Supplemented mothers took 5 mg of folic acid daily. Unsupplemented mothers took nothing. | Women given 5 mg of folic acid or reported no use from 1 month before conception through the 1st trimester. | 0 NTD-pregnancies among 81 supplemented women. 4 NTD-pregnancies among 114 untreated women. Indeterminant protective effect not statically significant. | Complete protective effect. |

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TABLE 2. OBSERVATIONAL STUDIES OF FOLIC ACID AND NEURAL TUBE DEFECTS (NTDs)

| Study | Design | Subjects | Exposures | Results | Comments |
|---|---|---|---|---|---|
| Mulinare, et al. 1988[5]. | Case/control in metropolitan Atlanta. | NTD case babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy.. | Multivitamin supplement containing 0–0.8 mg of folic acid at least 1 month before conception through the 1st trimester.. | 24 supplemented & 157 unsupplemented NTD case-women. 405 supplemented & 1,075 unsupplemented women controls. Odds ratio=0.40, p<0.05.. | 60 percent reduction in risk. |
| Bower and Stanley, 1989[6]. | Case/control in Western Australia. | Spina bifida case babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy.. | Dietary folate and multivitamin supplement at least 1 month before conception through the 1st trimester.. | 77 NTD cases: 154 control mothers in study. The highest folate quartile was compared with the lowest. An increasing protective effect was observed from the lowest to the highest quartile. Odds ratio=0.25, p<0.05.. | 75 percent reduction in risk. |
| Mills, et al. 1989[7]. | Case/control in California and Illinois. | NTD case babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy.. | Multivitamin + folate supplement containing up to 0.8 mg of folic acid + diet at least 1 month before conception through the 1st trimester.. | 89 supplemented & 214 unsupplemented NTD case-women. 90 supplemented women controls. Odds ratio=0.91, not statistically significant.. | No protective effect. |
| Milunsky, et al. 1989[8]. | Prospective cohort in New England. | NTD cases babies and normal control babies. Pregnant women without a prior NTD-affected pregnancy.. | Multivitamin + folate supplement containing 0.1–1.0 mg of folic acid + diet at least 1 month before conception through the 1st trimester.. | 10 NTD-pregnancies among 10,713 women who took multivitamin + folate. 39 NTD-pregnancies among 11,944 women who took multivitamins without folate. Relative risk=0.28, p<0.05.. | 72 percent reduction in risk. |

Footnotes at end of article.

FOOTNOTES

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*The recommendations were developed through the efforts of the Centers for Disease Control, the Food and Drug Administration, the Health Resources and Services Administration, and the National Institutes of Health, coordinated through the Office of the Assistant Secretary for Health.

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By Mr. MURKOWSKI:

S. 1768. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS SETTLEMENT TECHNICAL CORRECTIONS

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Alaska Native Claims Settlement Act Technical Corrections Act of 1993. The purpose of this bill is to address several noncontroversial technical corrections to the Alaska Native Claims Settlement Act [ANCSA] of 1971.

The bill I am introducing today is not a perfect bill. Several provisions presented to me by the Alaska Federation of Natives are not included in this legislation. I have elected to withhold introducing these because concerns have been expressed about them that deserve attention. These provisions relate to the Nellie Juan Land Transfer, the Rescission of Relinquishment provision, the Seldovia Native Corporation provision, and the provision dealing with subsurface estate beneath Native Allotments in the National Petroleum Reserve in Alaska.

When a compromise is reached that satisfies all parties involved, I will add these provisions to my bill. I am confident that these provisions will be attached to my legislation before Congress takes any action in committee on this legislation.

Mr. President, enactment of ANCSA was a monumental event in Alaska. The land grants and compensation contained in ANCSA are unprecedented. ANCSA created business corporations

based on existing Alaska Native communities instead of the old-style reservation system. The corporations created under ANCSA became responsible for managing and investing their assets to the benefit of their all-Native shareholders. ANCSA established a system whereby Alaska Natives could become self-sufficient and thereby determine their own destinies.

While ANCSA is a unique law which is working extremely well, occasionally we find the need to fine tune the law. The bill I am introducing today will correct several provisions in ANCSA so that Alaska Natives can truly determine their own destinies.

Section 1 of the bill would allow the Chugach Alaska Corporation to select a specific track of land in Alaska which is on the edge of Chugach's current land selections.

Section 2 would relieve the Department of the Interior of further land selection obligations to the two Native groups of Caswell and Montana Creek.

Section 3 is intended to remedy certain problems Alaska Native Corporations are experiencing with respect to federal mining claims on conveyed Native lands.

Section 4 would provide authorization of appropriations to provide technical assistance to Village Corporations for the purpose of conveying land to Village Corporations.

Section 5 would make certain veterans from the Korean conflict and the Vietnam era eligible for land allotments.

Section 6 authorizes the Cook Inlet Regional Corporation to return title to a 10-acre site in Wrangell, AK, to the United States Government.

Section 7 corrects legislative language concerning lapsed mining claims located within the boundaries of the Wrangell-St. Elias National Park and Preserve.

As introduced, the Alaska Native Claims Settlement Act Technical Corrections Act of 1993 should not be viewed as a final product. It is a legislative vehicle that will be amended and perfected during the next several weeks, enabling the Alaska Congressional delegation, the Alaska Governor's office, and Alaska's Native community to actively participate in the legislative process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1768

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. KAGEET POINT LAND SELECTION.**

The lands contained in the western half of Township 21 South, Range 24 East, Copper River Meridian, commonly known as "Kageet Point", shall be considered and treated as acreage allotted to the Chugach Alaska Corporation for the purpose of making selections under section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)).

**SEC. 2. RATIFICATION OF CERTAIN CASWELL AND MONTANA CREEK NATIVE ASSOCIATIONS CONVEYANCES.**

The conveyance of approximately 11,520 acres to Montana Creek Native Association, Inc., and the conveyance of approximately 11,520 acres to Caswell Native Association, Inc., shall be considered and treated as conveyances under section 14(h)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(2)). The group corporations for Montana Creek and Caswell are hereby declared to have received their full entitlement and shall not be entitled to the receipt of any additional lands under the Alaska Native Claims Settlement Act.

**SEC. 3. MINING CLAIMS AFTER LANDS PATENTED TO REGIONAL CORPORATION.**

Section 22(c) of Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended by adding at the end the following new paragraph:

"(3) After the fee or subsurface lands subject to a valid mining claim have been patented to a Regional Corporation—

"(A) any person holding such valid mining claim shall continue to meet all requirements of the general mining laws and section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744);

"(B) the United States shall continue to administer the mining claim, unless and until the Secretary, acting through the Bureau of Land Management, waives administration in favor of the Regional Corporation; and

"(C)(i) except as provided in clause (ii), all revenues from the mining claim otherwise due the United States shall be remitted to the Regional Corporation for distribution pursuant to section 7(i) of this Act; and

"(ii) if the Regional Corporation patent does not cover all land covered by the mining claim, the Regional Corporation shall be entitled only to the proportion of revenues reasonably allocated to the portion of the mining claim so covered.".

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS TO IMPLEMENT CONVEYANCES.**

Section 14(c) of Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) by striking "Each patent" and inserting "(1) Each patent"; and

(3) by adding at the end the following new paragraph:

"(2) There is authorized to be appropriated such sums as are necessary to provide technical assistance to Village Corporations in carrying out this subsection. The Secretary may make amounts available pursuant to this subsection through contracts with nonprofit organizations, whose function is to provide technical assistance in planning, developing, and administering assistance to Village Corporations in fulfilling the requirements of this subsection.".

**SEC. 5. OPEN SEASON FOR CERTAIN NATIVE ALASKA VETERANS FOR ALLOTMENTS.**

(a) IN GENERAL.—During the 1-year period beginning on the date of enactment of this Act, an individual described in subsection (b) is eligible for an allotment of not to exceed 160 acres under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(b) ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—An individual is eligible under subsection (a) if the individual would have been eligible under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971, and the individual is a veteran of the Korean conflict or the Vietnam era.

(2) DECEASED PERSONS.—In the case of an individual described in paragraph (1) who is deceased, the heirs of the individual shall be treated as the individual described in paragraph (1).

(c) CONVEYANCE DEADLINE.—The Secretary of the Interior shall complete land conveyances pursuant to this section not later than 2 years after the date of enactment of this Act.

(d) IMPLEMENTATION.—The Secretary shall prescribe such rules as are necessary to carry out this section.

(e) DEFINITIONS.—For the purposes of this section, the terms "veteran", "Korean conflict", and "Vietnam era" have the meaning given such terms in paragraphs (2), (9), and (29), respectively, of section 101 of title 38, United States Code.

**SEC. 6. TRANSFER OF WRANGELL INSTITUTE.**

(a) PROPERTY RETURN.—Cook Inlet Region, Incorporated, is authorized to transfer to the United States the 10-acre site of the Wrangell Institute in Wrangell, Alaska, and the structures contained thereon. The Administrator of General Services shall accept title to such property and the structures contained thereon, on behalf of the United States.

(b) RESTORATION OF BIDDING CREDITS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), in exchange for the land and structures at the Wrangell Institute transferred pursuant to subsection (a), the Administrator of General Services shall restore bidding credits to the Cook Inlet Region, Incorporated property account in the Treasury established pursuant to section 12(b) of Public Law 94-204 (43 U.S.C. 1611 note), in an amount equal to the sum of—

(A) $382,305, plus interest; and

(B) the cost of legal and other expenses incurred as a result of the return of the property.

(2) CALCULATION OF INTEREST.—The interest credited to the Cook Inlet Region, Incorporated property account pursuant to paragraph (1) shall be compounded semiannually at the same interest rate that was in effect for 5-year United States Treasury bonds on November 2, 1987. The interest shall be calculated for the period beginning on November 2, 1987, and ending on the date that the land is conveyed to the United States.

(3) USE OF RESTORED CREDITS.—Bidding credits restored to the Cook Inlet Region, Incorporated property account pursuant to paragraph (1) shall be available solely for the acquisition of General Services Administration properties.

(4) HOLD HARMLESS.—The United States shall defend and hold harmless Cook Inlet Region, Incorporated, and its subsidiaries, in any claim arising from Federal or Cook Inlet Region, Incorporated, ownership of the land and structures, prior to the return of such land and structures to the United States.

**SEC. 7. LAPSED MINING CLAIMS.**

Section 22(c)(2)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) in clause (i)—

(A) by striking "outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and"; and

(B) by striking "The Secretary shall promptly determine the validity of such claims or locations within conservation system units."; and

(2) in clause (ii), by striking "outside a conservation system unit" each place such phrase appears.

## ADDITIONAL COSPONSORS

S. 154

At the request of Mr. GRAMM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 154, a bill to ensure that any peace dividend is invested in America's families and deficit reduction.

S. 207

At the request of Mr. LOTT, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 207, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 228

At the request of Mr. BRYAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 228, a bill to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16.

S. 469

At the request of Mr. WARNER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 469, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Vietnam Women's Memorial.

S. 613

At the request of Mr. HARKIN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 613, a bill to prohibit the importation of goods produced abroad with child labor, and for other purposes.

S. 717

At the request of Mr. DANFORTH, his name was added as a cosponsor of S. 717, a bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

S. 738

At the request of Mr. DANFORTH, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 738, a bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers.

S. 946

At the request of Mr. BROWN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 946, a bill to reduce the legislative branch budget by 25 percent.

S. 991

At the request of Mr. JOHNSTON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 991, a bill to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes.

S. 994

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 994, a bill to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1228

At the request of Mr. BROWN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1228, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes.

S. 1359

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Colorado [Mr. CAMPBELL], the Senator from North Dakota [Mr. DORGAN], the Senator from North Carolina [Mr. HELMS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 1359, a bill to amend the Food Stamp Act of 1977 to require the domestic production of food stamp coupons.

S. 1560

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1560, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1560, supra.

S. 1592

At the request of Mr. HATFIELD, his name was added as a cosponsor of S. 1592, a bill to improve Federal decision making by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

S. 1614

At the request of Mr. LEAHY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1614, a bill to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

S. 1698

At the request of Mr. MACK, his name was added as a cosponsor of S. 1698, a bill to reduce the paperwork burden on certain rural regulated financial institutions, and for other purposes.

S. 1715

At the request of Mrs. HUTCHISON, the names of the Senator from Nebraska [Mr. EXON], the Senator from Georgia [Mr. COVERDELL], the Senator from Oklahoma [Mr. BOREN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 27, a bill to express the sense of Congress that funding should be provided to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs and to expand the Job Corps program, and for other purposes.

SENATE RESOLUTION 170

At the request of Mrs. BOXER, her name was added as a cosponsor of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

## SENATE RESOLUTION 172—RELATIVE TO SINE DIE ADJOURNMENT

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 172

*Resolved*, That notwithstanding the sine die adjournment of the present session of the

Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

## SENATE RESOLUTION 173—EXTENDING THE SENATE ETHICS STUDY COMMISSION RECOMMENDATION PERIOD

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 173

*Resolved,* That S. Res. 111, which was adopted May 21, 1993, is hereby amended by striking "December 31, 1993" each place it appears and inserting "March 1, 1994".

## AMENDMENTS SUBMITTED

## TAX CONVENTION WITH MEXICO

### SARBANES EXECUTIVE AMENDMENT NO. 1228

Mr. SARBANES proposed an amendment to the Reservation proposed by the Committee to the resolution of ratification of the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol (Treaty Doc. 103-7); as follows:

In lieu of the reservation proposed to be inserted by the Committee, insert the following:

(a) Understanding: That the phrase "both Contracting States shall apply that lower rate" in paragraph 8(b) of the proposed protocol is understood to mean that both Contracting States agree to promptly amend the Convention to incorporate that lower rate; and

## NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

### KENNEDY (AND SIMPSON) AMENDMENT NO. 1229

Mr. FORD (for Mr. KENNEDY for himself and Mr. SIMPSON) proposed an amendment to the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

Titles I and III of this Act may be cited as the "Immigration and Nationality Technical Corrections Act of 1993".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

Sec. 101. American Institute in Taiwan.
Sec. 102. Special immigrant status of retired officers and employees of international organizations.
Sec. 103. Treatment of Tibet under per country levels.
Sec. 104. Authority for Secretary of State to make refugee determinations.
Sec. 105. Clarification of certain grounds for exclusion and deportation.
Sec. 106. Labor market information pilot program for employment-based immigrants.
Sec. 107. United States citizens entering and departing on United States passports.
Sec. 108. Applications for visas.
Sec. 109. Limitations on performance of longshore work by alien crewmembers—Alaska exception.
Sec. 110. Family unity and temporary protected status.
Sec. 111. Adjustment of status of certain representatives of foreign governments and international organizations.
Sec. 112. Priority dates for aliens registered on the Western Hemisphere waiting list.
Sec. 113. Other miscellaneous and technical corrections to immigration-related provisions.

TITLE II—NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

Sec. 201. Short title.
Sec. 202. Equal treatment of women in conferring citizenship for children born abroad.
Sec. 203. Nationals, but not citizens, at birth based on use of physical presence instead of residence.
Sec. 204. Children born out of wedlock.
Sec. 205. Child born outside of the United States of an alien parent; conditions for automatic citizenship.
Sec. 206. Naturalization of children on application of citizen parent.
Sec. 207. Former citizens of United States regaining United States citizenship.
Sec. 208. Intent to reside permanently in the United States after naturalization.
Sec. 209. Terminology relating to expatriation.
Sec. 210. Administrative and judicial determinations relating to loss of citizenship.
Sec. 211. Cancellation of United States passports and consular reports of birth.
Sec. 212. Report on citizenship of certain legalized aliens.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Secretary of State to issue United States passports to United States citizens and nationals only.
Sec. 302. Fraud and misuse of travel documents.
Sec. 303. Border Patrol Museum and Memorial Library Foundation.
Sec. 304. Special immigrant status for certain aliens employed abroad.

**TITLE I—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS**

**SEC. 101. AMERICAN INSTITUTE IN TAIWAN.**

Section 101(a)(27)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(D)) is amended—

(1) by inserting "or of the American Institute in Taiwan," after "of the United States Government abroad,"; and

(2) by inserting "(or, in the case of the American Institute in Taiwan, the Director thereof)" after "Foreign Service establishment".

**SEC. 102. SPECIAL IMMIGRANT STATUS OF RETIRED OFFICERS AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS.**

Section 101(a)(27)(I)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(I)(iii)) is amended by striking subclause (II) and inserting in lieu thereof the following: "(II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1993, whichever is later.".

**SEC. 103. TREATMENT OF TIBET UNDER PER COUNTRY LEVELS.**

(a) APPLICATION OF IMMIGRATION AND NATIONALITY ACT.—The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1994, with respect to Tibet as a separate foreign state, and not as a component or dependent area of another foreign state.

(b) DEFINITION.—For purposes of this section, the term "Tibet" refers to the territory encompassed by Tibet as of October 1, 1949.

**SEC. 104. AUTHORITY FOR SECRETARY OF STATE TO MAKE REFUGEE DETERMINATIONS.**

Section 207(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(1)) is amended—

(1) by inserting "(A)" immediately after "(1)";

(2) by inserting "and subject to subparagraph (B)," after "subsections (a) and (b),"; and

(3) by adding at the end thereof the following:

"(B) The Secretary of State, together with the Attorney General, shall develop procedures under which the Secretary may determine individuals to be qualified for admission to the United States as refugees. Such determinations may be made by the Secretary of State in situations (defined by the Attorney General together with the Secretary of State) in which the Attorney General does not have immediate access to the individual under consideration for admission as a refugee and cannot expeditiously determine whether such individual is qualified for refugee admission.".

**SEC. 105. CLARIFICATION OF CERTAIN GROUNDS FOR EXCLUSION AND DEPORTATION.**

(a) EXCLUSION GROUNDS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)(A)(i)(I), by inserting "or an attempt or conspiracy to commit that crime" after "offense)",

(2) in subsection (a)(2)(A)(i)(II), by inserting "or attempt" after "conspiracy", and

(3) in the last sentence of subsection (n), by inserting ", or an attempt or conspiracy to commit murder or a criminal act involving torture" after "torture".

(b) DEPORTATION GROUNDS.—Section 241(a) of such Act (8 U.S.C. 1251(a)) is amended—

(1) in paragraph (2)(C)—

(A) by striking "in violation of any law," and inserting ", or of attempting or conspiring to purchase, sell, offer for sale, exchange, use own, possess, or carry,", and

(B) by inserting "in violation of any law" after "Code)"; and

(2) in paragraph (3)(B), by inserting "an attempt or" before "a conspiracy" each place it appears in clauses (ii) and (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act.

**SEC. 106. LABOR MARKET INFORMATION PILOT PROGRAM FOR EMPLOYMENT-BASED IMMIGRANTS.**

(a) PROGRAM MADE DISCRETIONARY.—Section 122(a)(1) of the Immigration Act of 1990 is amended by striking from the first sentence "shall" and inserting "may".

(b) CONFORMING AMENDMENT.—Section 122(a)(4) of such Act is amended by striking "By" and inserting "In the event a pilot program is established pursuant to this subsection, by".

**SEC. 107. UNITED STATES CITIZENS ENTERING AND DEPARTING ON UNITED STATES PASSPORTS.**

(a) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended by inserting "United States" after "valid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures and entries (and attempts thereof) occurring on or after the date of enactment of this Act.

**SEC. 108. APPLICATIONS FOR VISAS.**

(a) IN GENERAL.—The second sentence of section 222(a) of the Immigration and Nationality Act (8 U.S.C. 1202(a)) is amended—

(1) by striking "the immigrant" and inserting "the alien", and

(2) by striking "present address" and all that follows through "exempt from exclusion under the immigration laws;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications made on or after the date of the enactment of this Act.

**SEC. 109. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.**

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

**SEC. 110. FAMILY UNITY AND TEMPORARY PROTECTED STATUS.**

(a) IN GENERAL.—Section 301(a) of the Immigration Act of 1990 is amended by inserting after "May 5, 1988" the following: "(in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

**SEC. 111. ADJUSTMENT OF STATUS OF CERTAIN REPRESENTATIVES OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.**

Section 13(c) of the Act of September 11, 1957 (8 U.S.C. 1255b(c)) is amended—

(1) by striking the third sentence; and

(2) in the fourth sentence, by striking "If neither the Senate nor the House of Representatives passes such a resolution within the time above specified the" and inserting "The".

**SEC. 112. PRIORITY DATES FOR ALIENS REGISTERED ON THE WESTERN HEMISPHERE WAITING LIST.**

Section 9(b) of the Immigration and Nationality Act Amendments of 1976 (Public Law 94-571) is hereby repealed.

**SEC. 113. OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS TO IMMIGRATION-RELATED PROVISIONS.**

(a) Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by striking "and has" and inserting "or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has".

(b)(1) The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting "(and each child of the alien)" after "the alien".

(2) The second sentence of section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)) is amended—

(A) by inserting "spouse" after "alien", and

(B) by inserting "of the alien (and the alien's children)" after "for classification".

(c) Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by striking "TARGETTED", "TARGETTED", and "targetted" each place each appears and inserting "TARGETED", "TARGETED", and "targeted", respectively.

(d) Section 210(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(d)(3)) is amended by inserting "the" before "Service" the first place it appears.

(e) Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by striking "voluntary" and inserting "voluntarily".

(f) Section 217(e)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1187(e)(1)(A)) is amended by striking "(a)(1)(A)" and inserting "(a)(1)".

(g) Section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(c)) is amended by striking "or (3)(A) of subsection 241(a)" and inserting "and (3)(A) of subsection (a)".

(h) Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended by striking "Parole,," and inserting "Parole,".

(i) Section 242B(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1252b(c)(1)) is amended by striking the comma after "that".

(j) Section 244A(c)(2)(A)(iii)(III) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(A)(iii)(III)) is amended—

(1) by striking "Paragraphs" and inserting "paragraphs", and

(2) by striking "or (3)(E)" and inserting "and (3)(E)".

(k) Section 245(h)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(B)) is amended by striking "or (3)(E)" and inserting "and (3)(E)".

(l)(1) Subparagraph (C) of section 245A(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)), as added by Public Law 102-140, is amended—

(A) by indenting it 2 additional ems to the right; and

(B) by striking "subsection (B)" and inserting "subparagraph (B)".

(2) Section 610(b) of Public Law 102-140 is amended by striking "404(b)(2)(ii)" and "404(b)(2)(iii)" and inserting "404(b)(1)(A)(ii)" and "404(b)(2)(A)(iii)", respectively.

(m) Effective as of the date of the enactment of this Act, section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended by striking the first 3 sentences.

(n) Section 262(c) of the Immigration and Nationality Act (8 U.S.C. 1302(c)) is amended by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)".

(o) Section 272(a) of the Immigration and Nationality Act (8 U.S.C. 1322(a)) is amended by striking the comma after "so afflicted".

(p) The first sentence of section 273(b) of the Immigration and Nationality Act (8 U.S.C. 1323(b)) is amended by striking "collector of customs" and inserting "Commissioner".

(q) Section 274B(g)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(C)) is amended by striking "an administrative law judge" and inserting "the Special Counsel".

(r) Section 274C(b) of the Immigration and Nationality Act (8 U.S.C. 1324c(b)) is amended by striking "title V" and all that follows through "3481)" and inserting "chapter 224 of title 18, United States Code".

(s) Section 280(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1330(b)(1)(C)) is amended by striking "maintainance" and inserting "maintenance".

(t) Effective as if included in the enactment of Public Law 102-395, subsection (r) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 112 of such Public Law, is amended—

(1) in the subsection heading, by striking "Breached Bond/Detention Fund" and inserting "BREACHED BOND/DETENTION FUND";

(2) in paragraph (1), by striking "(hereafter referred to as the Fund)" and inserting "(in this subsection referred to as the 'Fund')";

(3) in paragraph (2), by striking "the Immigration and Nationality Act of 1952, as amended," and inserting "this Act";

(4) in paragraphs (4) and (6), by striking "the Breached Bond/Detention";

(5) in paragraph (4), by striking "of this Act" and inserting "of Public Law 102-395";

(6) in paragraph (5), by striking "account" and inserting "Fund"; and

(7) in paragraph (6), by striking "Breached Bond/Detention" each of the two places it appears.

(u) Section 310(b)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1421(b)(5)(A)) is amended by striking "District Court" and inserting "district court".

(v) Effective December 12, 1991, section 313(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1424(a)(2)) is amended by striking "and" before "(F)" and inserting "or".

(w) Section 333(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1444(b)(1)) is amended by striking "249(a)" and inserting "249".

(x) Section 412(e)(7)(D) of the Immigration and Nationality Act (8 U.S.C. 1522(e)(7)(D)) is amended by striking "paragraph (1) or (2) of".

(y) Section 302(c) of the Immigration Act of 1990 is amended by striking "effect" and inserting "affect".

(z) Effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991—

(1) section 303(a)(7)(B)(i) of such Act is amended by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)";

(2) section 304(b)(2) of such Act is amended by striking "paragraph (1)(B)" and inserting "subsection (c)(1)(B)";

(3) paragraph (1) of section 305(j) of such Act is repealed (and section 407(d)(16)(C) of the Immigration Act of 1990 shall read as if such paragraph had not been enacted);

(4) paragraph (2) of section 306(b) of such Act is amended to read as follows:

"(2) Section 538(a) of the Immigration Act of 1990 is amended by striking the comma after 'Service'.";

(5) section 307(a)(6) of such Act is amended by striking "immigrants" the first place it appears and inserting "immigrant aliens";

(6) section 309(a)(3) of such Act is amended by striking "paragraph (1) and (2)" and inserting "paragraphs (1)(A) and (1)(B)";

(7) section 309(b)(6)(F) of such Act is amended by striking "210(a)(1)(B)(1)(B)" and inserting "210(a)(B)(1)(B)";

(8) section 309(b)(8) of such Act is amended by striking "274A(g)" and inserting "274A(h)"; and

(9) section 310 of such Act is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and by striking "309(c)" and inserting "309(b)".

(aa) Effective as if included in section 4 of Public Law 102-110, section 161(c)(3) of the Immigration Act of 1990 is amended—

(1) by striking "alien described in section 203(a)(3) or 203(a)(6) of such Act" and inserting "alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date)"; and

(2) by striking "this section" and inserting "this title".

(bb) Section 599E(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "and subparagraphs" and inserting "or subparagraph".

(cc) Except as otherwise specifically provided in this section, the amendments made by this section shall be effective as if included in the enactment of the Immigration Act of 1990.

## TITLE II—NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Nationality and Naturalization Amendments of 1993".

**SEC. 202. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP FOR CHILDREN BORN ABROAD.**

(a) IN GENERAL.—Section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended—

(1) by striking the period at the end of paragraph (g) and inserting "; and", and

(2) by adding at the end the following new paragraph:

"(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.".

(b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the

case of a person claiming United States citizenship based on section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) RETROACTIVE APPLICATION.—(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though the amendment made by subsection (a), and subsection (b), had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

**SEC. 203. NATIONALS, BUT NOT CITIZENS, AT BIRTH BASED ON USE OF PHYSICAL PRESENCE INSTEAD OF RESIDENCE.**

(a) IN GENERAL.—Section 308(2) of the Immigration and Nationality Act (8 U.S.C. 1408(2)) is amended by striking "have had a residence" and inserting "were physically present".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons born on or after the date of the enactment of this Act.

**SEC. 204. CHILDREN BORN OUT OF WEDLOCK.**

(a) IN GENERAL.—Section 309(c) of the Immigration and Nationality Act (8 U.S.C. 1409(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of satisfying the physical presence requirements of this subsection, the mother may include any period during which she is physically present abroad as the dependent unmarried daughter and a member of the household of a person—

"(A) honorably serving with the Armed Forces of the United States; or

"(B) employed by the United States Government or an international organization, as defined in section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to mothers of persons born on or after the date of the enactment of this Act.

**SEC. 205. CHILD BORN OUTSIDE OF THE UNITED STATES OF AN ALIEN PARENT; CONDITIONS FOR AUTOMATIC CITIZENSHIP.**

(a) IN GENERAL.—Section 321(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1432(a)(3)) is amended by inserting "sole or joint" before "legal custody of the child".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the awarding of custody before, on, or after the date of enactment of this Act.

**SEC. 206. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.**

(a) IN GENERAL.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follows:

"CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

"SEC. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

"(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

"(2) The child is physically present in the United States pursuant to a lawful admission.

"(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

"(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the citizen parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

"(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years—

"(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

"(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

"(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

"(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 341 of such Act (8 U.S.C. 1452) is repealed.

(c) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 322 is amended to read as follows:

"Sec. 322. Child born outside the United States; application for certificate of citizenship requirements.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

**SEC. 207. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.**

(a) IN GENERAL.—Section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end the following new subsection:

"(d)(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

"(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

**SEC. 208. INTENT TO RESIDE PERMANENTLY IN THE UNITED STATES AFTER NATURALIZATION.**

(a) IN GENERAL.—Section 338 of the Immigration and Nationality Act (8 U.S.C. 1449) is amended by striking "intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title,".

(b) CONFORMING REPEAL.—Section 340(d) of such Act (8 U.S.C. 1451(d)) is repealed.

(c) CONFORMING REDESIGNATION.—Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively; and

(2) in subsection (d) (as redesignated), by striking "subsections (c) or (d)" and inserting "subsection (c)".

(d) CONFORMING AMENDMENT.—Section 405 of the Immigration Act of 1990 is amended by striking subsection (b).

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons admitted to citizenship on or after the date of enactment of this Act.

**SEC. 209. TERMINOLOGY RELATING TO EXPATRIATION.**

(a) IN GENERAL.—Section 351 of the Immigration and Nationality Act (8 U.S.C. 1483) is amended—

(1) in the heading, by striking "EXPATRIATION" and inserting "LOSS OF NATIONALITY";

(2) in subsection (a)—

(A) by striking "expatriate himself, or be expatriated" and inserting "can lose United States nationality", and

(B) by striking "expatriation" and inserting "loss of nationality"; and

(3) in subsection (b), by striking "expatriated himself" and inserting "lost United States nationality".

(b) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 351 is amended to read as follows:

"Sec. 351. Restrictions on loss of nationality.".

**SEC. 210. ADMINISTRATIVE AND JUDICIAL DETERMINATIONS RELATING TO LOSS OF CITIZENSHIP.**

(a) FINAL ADMINISTRATIVE DETERMINATIONS.—Section 358 of the Immigration and Nationality Act (8 U.S.C. 1501) is amended by adding at the end the following new sentence: "Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination

of loss of United States nationality under this Act, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 360.".

(b) JUDICIAL PROCEEDINGS.—Subsections (a) and (b) of section 360 of such Act (8 U.S.C. 1503) are each amended by inserting ", including approval of a certificate in accordance with section 358," after "official thereof,".

**SEC. 211. CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH.**

(a) IN GENERAL.—Title III of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH

"SEC. 361. (a) The Secretary of State is authorized to cancel any United States passport or Consular Report of Birth, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through illegality or fraud practiced upon, the Secretary. The person for or to whom such document has been issued or made shall be given at such person's last known address written notice of the intention to cancel such document, together with the reasons therefor, and shall be given at least 60 days in which to show, pursuant to such regulation as the Secretary may prescribe, why such document should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

"(b) For purposes of this section, the term 'Consular Report of Birth' refers to the report, designated as a 'Report of Birth Abroad of a Citizen of the United States', issued by a consular officer to document a citizen born abroad.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 360 the following new item:

"Sec. 361. Cancellation of United States passports and Consular Reports of Birth.".

**SEC. 213. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.**

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

(1) The number of applications for citizenship filed.

(2) The number of applications approved.

(3) The number of applications denied.

(4) The number of applications pending.

## TITLE III—MISCELLANEOUS PROVISIONS

**SEC. 301. SECRETARY OF STATE TO ISSUE UNITED STATES PASSPORTS TO UNITED STATES CITIZENS AND NATIONALS ONLY.**

Section 2 of the Act of June 14, 1902 (32 Stat. 386; 22 U.S.C. 212) is amended by striking "for any other persons than those owing allegiance, whether citizens or not, to the United States" and inserting "for any person other than a citizen or national of the United States.".

**SEC. 302. FRAUD AND MISUSE OF TRAVEL DOCUMENTS.**

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 911—

(A) by striking "not more than $1,000" and inserting "under this title"; and

(B) by striking "three years" and inserting "six years";

(2) in section 1001—

(A) by striking "not more than $10,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years";

(3) in section 1541—

(A) by striking "not more than $500" and inserting "under this title"; and

(B) by striking "one year" and inserting "ten years";

(4) in section 1542—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years";

(5) in section 1543—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years";

(6) in section 1544—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "five years" and inserting "ten years"; and

(7) in section 1545—

(A) by striking "not more than $2,000" and inserting "under this title"; and

(B) by striking "three years" and inserting "five years".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to offenses committed on or after the date of enactment of this Act.

**SEC. 303. BORDER PATROL MUSEUM AND MEMORIAL LIBRARY FOUNDATION.**

(a) AUTHORITY.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas—

(1) such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service, and

(2) such real property of the United States,

as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

**SEC. 304. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED ABROAD.**

(a) IN GENERAL.—An alien lawfully admitted to the United States for permanent residence shall be considered, for purposes of section 101(a)(27)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(A)), to be temporarily visiting abroad during any period before, on, or after the date of enactment of this Act in which the alien is employed by the American University of Beirut or by Beirut University College.

(b) REPEAL.—Private Law 98-53 (8 U.S.C. 1101 note) is hereby repealed.

## COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

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### DECONCINI (AND OTHERS) AMENDMENT NO. 1230

Mr. FORD (for Mr. DECONCINI for himself, Mr. HATCH, and Mr. COHEN) proposed an amendment to the bill (H.R. 2840) to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Copyright Royalty Tribunal Reform Act of 1993".

**SEC. 2. COPYRIGHT ARBITRATION ROYALTY PANELS.**

(a) ESTABLISHMENT AND PURPOSE.—Section 801 of title 17, United States Code, is amended as follows:

(1) The section designation and heading are amended to read as follows:

**"§ 801. Copyright arbitration royalty panels: Establishment and purpose".**

(2) Subsection (a) is amended to read as follows:

"(a) ESTABLISHMENT.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, is authorized to appoint and convene copyright arbitration royalty panels.".

(3) Subsection (b) is amended—

(A) by inserting "PURPOSES.—" after "(b)";

(B) in the matter preceding paragraph (1), by striking "Tribunal" and inserting "copyright arbitration royalty panels";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "Commission" and inserting "copyright arbitration royalty panels";

(ii) in subparagraph (B), by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panels"; and

(iii) in subparagraph (D) by adding "and" after the semicolon;

(D) in paragraph (3)—

(i) by striking "and 119(b)," and inserting "119(b), and 1003,"; and

(ii) by striking the sentence beginning with "In determining" through "this title"; and

(E) by striking paragraph (4);

(4) by amending subsection (c) to read as follows:

"(c) RULINGS.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, may, before a copyright arbitration royalty panel is convened, make any necessary procedural or evidentiary rulings that would apply to the proceedings conducted by such panel."; and

(5) by adding at the end the following new subsection:

"(d) ADMINISTRATIVE SUPPORT OF COPYRIGHT ARBITRATION ROYALTY PANELS.—The Library of Congress, upon recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter.".

(b) MEMBERSHIP AND PROCEEDINGS.—Section 802 of title 17, United States Code, is amended to read as follows:

**"§ 802. Membership and proceedings of copyright arbitration royalty panels**

"(a) COMPOSITION OF COPYRIGHT ARBITRATION ROYALTY PANELS.—A copyright arbitration royalty panel shall consist of 3 arbitrators selected by the Librarian of Congress pursuant to subsection (b).

"(b) SELECTION OF ARBITRATION PANEL.—Not later than 10 days after publication of a notice in the Federal Register initiating an arbitration proceeding under section 803, and in accordance with procedures specified by the Register of Copyrights, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, select 2 arbitrators from lists provided by professional arbitration associations. Qualifications of the arbitrators shall include experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes, and any qualifications which the Librarian of Congress, upon recommendation of the Register of Copyrights, shall adopt by regulation. The 2 arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same lists, who shall serve as the chairperson of the arbitrators. If such 2 arbitrators fail to agree upon the selection of a third arbitrator, the Librarian of Congress shall promptly select the third arbitrator. The Librarian of Congress, upon recommendation of the Register of Copyrights, shall adopt regulations regarding standards of conduct which shall govern arbitrators and the proceedings under this chapter.

"(c) ARBITRATION PROCEEDINGS.—Copyright arbitration royalty panels shall conduct arbitration proceedings, subject to subchapter II of chapter 5 of title 5, United States Code, for the purpose of making their determinations in carrying out the purposes set forth in section 801. The arbitration panels shall act on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration panel determinations, and rulings by the Librarian of Congress under section 801(c). Any copyright owner who claims to be entitled to royalties under section 111, 116, or 119, or any interested copyright party who claims to be entitled to royalties under section 1006, may submit relevant information and proposals to the arbitration panels in proceedings applicable to such copyright owner or interested copyright party, and any other person participating in arbitration proceedings may submit such relevant information and proposals to the arbitration panel conducting the proceedings. In ratemaking proceedings, the parties to the proceedings shall bear the entire cost thereof in such manner and proportion as the arbitration panels shall direct. In distribution proceedings, the parties shall bear the cost in direct proportion to their share of the distribution.

"(d) PROCEDURES.—Effective on the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, the Librarian of Congress shall adopt the rules and regulations set forth in chapter 3 of title 37 of the Code of Federal Regulations to govern proceedings under this chapter. Such rules and regulations shall remain in effect unless and until the Librarian, upon recommendation of the Register of Copyrights, adopts supplemental or superseding regulations under subchapter II of chapter 5 of title 5, United States Code.

"(e) REPORT TO THE LIBRARIAN OF CONGRESS.—Not later than 180 days after publication of the notice in the Federal Register initiating an arbitration proceeding, the copyright arbitration royalty panel conducting the proceeding shall report to the Librarian of Congress its determination concerning the royalty fee or distribution of royalty fees, as the case may be. Such report shall be accompanied by the written record, and shall set forth the facts that the arbitration panel found relevant to its determination.

"(f) ACTION BY LIBRARIAN OF CONGRESS.—Within 60 days after receiving the report of a copyright arbitration royalty panel under subsection (e), the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt or reject the determination of the arbitration panel. The Librarian shall adopt the determination of the arbitration panel unless the Librarian finds that the determination is arbitrary or contrary to the applicable provisions of this title. If the Librarian rejects the determination of the arbitration panel, the Librarian shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be. The Librarian shall cause to be published in the Federal Register the determination of the arbitration panel, and the decision of the Librarian (including an order issued under the preceding sentence). The Librarian shall also publicize such determination and decision in such other manner as the Librarian considers appropriate. The Librarian shall also make the report of the arbitration panel and the accompanying record available for public inspection and copying.

"(g) JUDICIAL REVIEW.—Any decision of the Librarian of Congress under subsection (f) with respect to a determination of an arbitration panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. If no appeal is brought within such 30-day period, the decision of the Librarian is final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in the decision. The pendency of an appeal under this paragraph shall not relieve persons obligated to make royalty payments under sections 111, 115, 116, 118, 119, or 1003 who would be affected by the determination on appeal to deposit the statement of account and royalty fees specified in those sections. The court shall have jurisdiction to modify or vacate a decision of the Librarian only if it finds, on the basis of the record before the Librarian, that the Librarian acted in an arbitrary manner. If the court modifies the decision of the Librarian, the court shall have jurisdiction to enter its own determination with respect to the amount or distribution of royalty fees and costs, to order the repayment of any excess fees, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the arbitration panel and remand the case to the Librarian for arbitration proceedings in accordance with subsection (c).

"(h) ADMINISTRATIVE MATTERS.—

"(1) DEDUCTION OF COSTS FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. If no royalty pool exists from which their costs can be deducted, the Librarian of Congress and the Copyright Office may assess their reasonable costs directly to the parties to the most recent relevant arbitration proceeding.

"(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 115, 116, 118, or 119 or chapter 10.".

(c) PROCEDURES OF THE TRIBUNAL.—Section 803 of title 17, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 8 of such title, are repealed.

(d) INSTITUTION AND CONCLUSION OF PROCEEDINGS.—Section 804 of title 17, United States Code, is amended as follows:

(1) The section heading is amended to read as follows:

**"§ 803. Institution and conclusion of proceedings".**

(2) Subsection (a) is amended to read as follows:

"(a)(1) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under subparagraphs (A) and (D) of section 801(b)(2), during the calendar years specified in the schedule set forth in paragraphs (2), (3), and (4), any owner or user of a copyrighted work whose royalty rates are specified by this title, established by the Copyright Royalty Tribunal before the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, or established by a copyright arbitration royalty panel after such date of enactment, may file a petition with the Librarian of Congress declaring that the petitioner requests an adjustment of the rate. The Librarian of Congress shall, upon the recommendation of the Register of Copyrights, make a determination as to whether the petitioner has such a significant interest in the royalty rate in which an adjustment is requested. If the Librarian determines that the petitioner has such a significant interest, the Librarian shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter.

"(2) In proceedings under section 801(b)(2)(A) and (D), a petition described in paragraph (1) may be filed during 1995 and in each subsequent fifth calendar year.

"(3) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, a petition described in paragraph (1) may be filed in 1997 and in each subsequent tenth calendar year.

"(4)(A) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 116, a petition described in paragraph (1) may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Librarian of Congress shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration,

convene a copyright arbitration royalty panel. The arbitration panel shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of non-dramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the arbitration panel, in accordance with section 802, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).".

(3) Subsection (b) is amended—

(A) by striking "subclause" and inserting "subparagraph";

(B) by striking "Tribunal" the first place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress";

(C) by striking "Tribunal" the second and third places it appears and inserting "Librarian";

(D) by striking "Tribunal" the last place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress"; and

(E) by striking "(a)(2), above" and inserting "subsection (a) of this section".

(4) Subsection (c) is amended by striking "Tribunal" and inserting "Librarian of Congress".

(5) Subsection (d) is amended—

(A) by striking "Chairman of the Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "determination by the Tribunal" and inserting "a determination".

(6) Subsection (e) is stricken out.

(e) REPEAL.—Sections 805 through 810 of title 17, United States Code, are repealed.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 8 of title 17, United States Code, is amended to read as follows:

**"CHAPTER 8—COPYRIGHT ROYALTY TRIBUNAL**

"Sec.
"801. Copyright arbitration royalty panels: establishment and purpose.
"802. Membership and proceedings of copyright arbitration royalty panels.
"803. Institution and conclusion of proceedings.".

**SEC. 3. JUKEBOX LICENSES.**

(a) REPEAL OF COMPULSORY LICENSE.—Section 116 of title 17, United States Code, and the item relating to section 116 in the table of sections at the beginning of chapter 1 of such title, are repealed.

(b) NEGOTIATED LICENSES.—(1) Section 116A of title 17, United States Code, is amended—

(A) by redesignating such section as section 116;

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(C) in subsection (b)(2) (as so redesignated) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in subsection (c) (as so redesignated)—

(i) in the subsection caption by striking "ROYALTY TRIBUNAL" and inserting "ARBITRATION ROYALTY PANEL";

(ii) by striking "subsection (c)" and inserting "subsection (b)"; and

(iii) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(E) by striking subsections (e), (f), and (g).

(2) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by striking "116A" and inserting "116".

**SEC. 4. PUBLIC BROADCASTING COMPULSORY LICENSE.**

Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first 2 sentences;

(B) in the third sentence by striking "works specified by this subsection" and inserting "published nondramatic musical works and published pictorial, graphic, and sculptural works";

(C) in paragraph (1)—

(i) in the first sentence by striking ", within one hundred and twenty days after publication of the notice specified in this subsection,"; and

(ii) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in paragraph (2) by striking "Tribunal" and inserting "Librarian of Congress";

(E) in paragraph (3)—

(i) by striking the first sentence and inserting the following: "In the absence of license agreements negotiated under paragraph (2), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Librarian of Congress.";

(ii) in the second sentence—

(I) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel"; and

(II) by striking "clause (2) of this subsection" and inserting "paragraph (2)"; and

(iii) in the last sentence by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(F) by striking paragraph (4);

(2) in subsection (c)—

(A) by striking "1982" and inserting "1997"; and

(B) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(3) in subsection (d)—

(A) by striking "to the transitional provisions of subsection (b)(4), and";

(B) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(C) in paragraphs (2) and (3) by striking "clause" each place it appears and inserting "paragraph"; and

(4) in subsection (g) by striking "clause" and inserting "paragraph".

**SEC. 5. SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.**

Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking ", after consultation with the Copyright Royalty Tribunal," each place it appears;

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in paragraph (3) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(D) in paragraph (4)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in subparagraph (B) by striking "conduct a proceeding" in the last sentence and inserting "convene a copyright arbitration royalty panel"; and

(2) in subsection (c)—

(A) in the subsection caption by striking "DETERMINATION" and inserting "ADJUSTMENT";

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(II) by striking the last sentence and inserting the following: "Such arbitration proceeding shall be conducted under chapter 8.";

(ii) by striking subparagraphs (B) and (C);

(iii) in subparagraph (D)—

(I) by redesignating such subparagraph as subparagraph (B); and

(II) by striking "Arbitration Panel" and inserting "copyright arbitration royalty panel appointed under chapter 8";

(iv) by striking subparagraphs (E) and (F);

(v) by amending subparagraph (G) to read as follows:

"(C) PERIOD DURING WHICH DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN EFFECTIVE.—The obligation to pay the royalty fee established under a determination which—

"(i) is made by a copyright arbitration royalty panel in an arbitration proceeding under this paragraph and is adopted by the Librarian of Congress under section 802(e), or

"(ii) is established by the Librarian of Congress under section 802(e),

shall become effective as provided in section 802(f).."; and

(vi) in subparagraph (H)—

(I) by redesignating such subparagraph as subparagraph (D); and

(II) by striking "adopted or ordered under subparagraph (F)" and inserting "referred to in subparagraph (C)"; and

(D) by striking paragraph (4).

**SEC. 6. CONFORMING AMENDMENTS.**

(a) CABLE COMPULSORY LICENSE.—Section 111(d) of title 17, United States Code, is amended as follows:

(1) Paragraph (1) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(2) Paragraph (1)(A) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(3) Paragraph (2) is amended by striking the second and third sentences and by inserting the following: "All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Librarian of Congress in the event no controversy over distribution exists, or by a copyright arbitration royalty panel in the event a controversy over such distribution exists.".

(4) Paragraph (4)(A) is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(5) Paragraph (4)(B) is amended to read as follows:

"(B) After the first day of August of each year, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, determine whether there exists a controversy concerning the distribution of royalty fees. If the Librarian determines that no such controversy exists, the Librarian shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled to such fees, or to their designated agents. If the Librarian finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty fees.".

(6) Paragraph (4)(C) is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress".

(b) AUDIO HOME RECORDING ACT.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) of title 17, United States Code, is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(2) DEPOSIT OF ROYALTY PAYMENTS.—Section 1005 of title 17, United States Code, is amended by striking the last sentence.

(3) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) of title 17, United States Code, is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress shall convene a copyright arbitration royalty panel which".

(4) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 of title 17, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" and inserting "Librarian of Congress";

(B) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(C) in subsection (c)—

(i) by striking the first sentence and inserting "If the Librarian of Congress finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments.";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in the last sentence by striking "its reasonable administrative costs" and inserting "the reasonable administrative costs incurred by the Librarian".

(5) ARBITRATION OF CERTAIN DISPUTES.—Section 1010 of title 17, United States Code, is amended—

(A) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress";

(B) in subsection (e)—

(i) in the subsection caption by striking "COPYRIGHT ROYALTY TRIBUNAL" and inserting "LIBRARIAN OF CONGRESS"; and

(ii) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in subsection (f)—

(i) in the subsection caption by striking "COPYRIGHT ROYALTY TRIBUNAL" and inserting "LIBRARIAN OF CONGRESS";

(ii) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(iii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iv) in the third sentence by striking "its" and inserting "the Librarian's"; and

(D) in subsection (g)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(ii) by striking "Tribunal's decision" and inserting "decision of the Librarian of Congress"; and

(iii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress".

**SEC. 7. EFFECTIVE DATE AND TRANSITION PROVISIONS.**

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EFFECTIVENESS OF EXISTING RATES AND DISTRIBUTIONS.—All royalty rates and all determinations with respect to the proportionate division of compulsory license fees among copyright claimants, whether made by the Copyright Royalty Tribunal, or by voluntary agreement, before the effective date set forth in subsection (a) shall remain in effect until modified by voluntary agreement or pursuant to the amendments made by this Act.

(c) TRANSFER OF APPROPRIATIONS.—All unexpended balances of appropriations made to the Copyright Royalty Tribunal, as of the effective date of this Act, are transferred on such effective date to the Copyright Office for use by the Copyright Office for the purposes for which such appropriations were made.

At the end of the bill add the following new section:

**SEC. 8. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.**

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

"(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

"(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

"(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7 miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932); and

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

**SEC. 111. NATIONALS, BUT NOT CITIZENS, AT BIRTH BASED ON USE OF PHYSICAL PRESENCE INSTEAD OF RESIDENCE.**

(a) IN GENERAL.—Section 308(2) of the Immigration and Nationality Act (8 U.S.C. 1408(2)) is amended by striking "have had a residence" and inserting "were physically present".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons born on or after the date of the enactment of this Act.

**SEC. 112. CHILDREN BORN OUT OF WEDLOCK.**

(a) IN GENERAL.—Section 309(c) of the Immigration and Nationality Act (8 U.S.C. 1409(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end the following new paragraph:

## EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS

### PRYOR AMENDMENT NO. 1231

Mr. FORD (for Mr. PRYOR) proposed an amendment to the bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes; as follows:

Between sections 2 and 3 of the Committee amendment, insert the following new section:

**SEC. 3. RESEARCH.**

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

In section 3 of the Committee amendment (relating to exempted producers), strike "SEC. 3" and insert "SEC. 4".

In section 4 of the Committee amendment (relating to amendments to the order), strike "SEC. 4" and insert "SEC. 5".

On page 9, line 20 of the committee reported bill, strike "90" and insert in lieu thereof "80."

On page 10, line 1 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

On page 10, line 6 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

## FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

### LEAHY AMENDMENT NO. 1232

Mr. FORD (for Mr. LEAHY) proposed an amendment to the bill (S. 994) to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes; as follows:

In section 5, subsection (i), paragraph 5, delete all after the word "Act" through the word "referenda."

## CHILD SAFETY PROTECTION ACT

### BRYAN (AND OTHERS) AMENDMENT NO. 1233

Mr. FORD (for Mr. BRYAN, for himself and Mr. GORTON) proposed an amendment to the bill (S. 680) to provide for toy safety, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

**SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.**

(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

**"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.**

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

"WARNING:

CHOKING HAZARD—Small parts. Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children ages 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Children under 8 yrs can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a marble. Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a marble. Not for children under 3 yrs.

"(c) GENERAL LABELING REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

"SAFETY WARNING

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

"WARNING—CHOKING HAZARD

"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".

(b) OTHER SMALL BALLS.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the "Commission") shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuances of regulations under this subsection.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995.

(e) PREEMPTION.—

(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

**SEC. 102. REPORTING REQUIREMENTS.**

(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—

(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1993".

**SEC. 202. ESTABLISHMENT OF PROGRAM.**

The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 203, make grants to States and nonprofit organizations for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

**SEC. 203. PURPOSES FOR GRANTS.**

A grant made under section 202 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

**SEC. 204. STANDARDS.**

(a) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4–1984".

(2) The Snell Memorial Foundation standard designated as "B–90".

(3) The American Society of Testing Materials standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection

(a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

For the National Highway Traffic Safety Administration to carry out the grant program authorized by this title, there are authorized to be appropriated $2,000,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $4,000,000 for fiscal year 1996.

**SEC. 206. DEFINITION.**

In this title, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 204(b), pending establishment of a final standard under section 204(c); and

(2) the final standard, once it is established under section 204(c).

TITLE III—BUCKET DROWNING PREVENTION

**SEC. 301. LABELING STANDARD REQUIREMENTS.**

On October 1, 1994, or 240 days after the date of the enactment of this title, whichever first occurs, there is established and effective a consumer product safety standard under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), to eliminate or reduce the risk of injury or death resulting from infants falling into 4-gallon to 6-gallon buckets containing liquid. Such standard, when established, shall require straight sided or slightly tapered, open head containers with a capacity of more than 4 gallons and less than 6 gallons (referred to in this title as a "bucket"), to bear one warning label in English and Spanish. The label shall meet the following requirements:

(1) The label shall be permanent so that such label cannot be removed, torn or defaced without the aid of tools or solvents.

(2) The label shall be at least 7 inches in height, and 3½ inches in width, or any larger size as the labeler may choose.

(3) The label shall be centered on one side of the bucket just below the point where the handle is inserted.

(4) The label shall have a border or other form of contrast around its edges to delineate it from any other information on the bucket.

(5) The label shall bear (A) the signal word "WARNING" in both English and Spanish, in bold uppercase lettering, and (B) in upper and lower case lettering the words "Children Can Fall Into Bucket and Drown. Keep Children Away From Buckets With Even a Small Amount of Liquid.", with an equivalent Spanish translation in at least the same type size as English. The signal word panel shall be preceded by a safety alert symbol consisting of an exclamation mark in a triangle.

(6) The label shall be clear and conspicuous and in contrasting colors.

(7) The label shall include a picture of a child falling into a bucket containing liquid. An encircled slash symbol shall be superimposed over, and surround the pictorial. The picture shall be positioned between the signal word panel and the message panel.

**SEC. 302. CERTAIN BUCKETS NOT AFFECTED.**

The standard established by section 301 applies only to buckets manufactured or imported on or after the effective date of such standard, and buckets manufactured or imported before such effective date may be sold without the warning label required by section 301 even though such sales occur after that date. The Consumer Product Safety Commission, by rule, shall prohibit a manufacturer, filler, distributor, and retailer from stockpiling buckets to which consumer product safety standards established by section 301 of this title would have applied but for the preceding sentence. For purposes of this section, the term "stockpiling" shall have the same meaning as that provided by section 9(g)(2) of the Consumer Product Safety Act.

**SEC. 303. PROHIBITED ACTS.**

(a) REMOVAL OF LABEL.—Once placed on a plastic bucket pursuant to the standard provided by section 301, it shall be a prohibited act under section 19 of the Consumer Product Safety Act for any person in the chain of distribution of the bucket to intentionally cover, obstruct, tear, deface or remove the label.

(b) CONSUMER PRODUCT SAFETY STANDARD.—The standard established by section 301 of this title shall be considered a consumer product safety standard established under the Consumer Product Safety Act.

**SEC. 304. EXISTING LABELS.**

Notwithstanding section 301, any bucket label in use on September 1, 1993, may, if such label is substantially in conformance with the requirements of paragraphs (3), (4), (5), and (6) of section 301, continue to be placed on buckets until 12 months after the date of the enactment of this title. Notwithstanding the preceding sentence, buckets subject to the provisions of this section must bear both an English and Spanish language label on and after the effective date of the standard established by section 301.

**SEC. 305. AMENDMENTS.**

Section 553 of title 5, United States Code, shall apply with respect to the Consumer Product Safety Commission's issuance of any amendments or changes to the bucket labeling standard established by section 301 of this title. Sections 7 and 9 of the Consumer Product Safety Act shall not apply to such amendments or changes.

**SEC. 306. RESPONSIBILITY FOR LABELING.**

(a) LABELING.—The standard established by section 301 requires the labeling of buckets covered by such standard to be the responsibility of the manufacturer of any such buckets, unless otherwise specified by contract between the manufacturer, and either the filler, distributor, or retailer of such buckets. Under no circumstances shall any such bucket enter the stream of commerce without such label.

(b) TIME FOR PLACING LABELS.—The required label must be on the bucket at the time it is sold or delivered to the end user of the bucket or its contents or, in the case of a bucket intended to be sold to the public in an empty state, at the time it is shipped to a retailer for sale to the public.

**SEC. 307. PERFORMANCE STANDARD.**

(a) PERFORMANCE STANDARD.—Within 30 days following the date of enactment of this title, the Consumer Product Safety Commission shall commence a proceeding under the Consumer Product Safety Act for the issuance of a performance standard for buckets to address the drowning hazard associated with this product. Such standard shall take effect at such time as may be prescribed by the Consumer Product Safety Commission, but in no event later than 15 months following the date of the enactment of this title. The Consumer Product Safety Commission shall consider any American Society for Testing and Materials voluntary performance standard in existence prior to such date of enactment.

(b) LABELING REQUIREMENTS.—The labeling requirements under section 101 shall not apply to buckets certified by the Consumer Product Safety Commission as meeting the performance standard in subsection (a).

**SEC. 308. CONSULTATION.**

To avoid duplicative and conflicting labeling, the Consumer Product Safety Commission shall complete a consultation with relevant Federal agencies within 30 days following the date of enactment of this Act.

**SEC. 309. REQUIREMENT FOR COMMISSION STUDY.**

(a) STUDY.—The Commission shall conduct a study to assess the frequency of deaths and injuries arising from drowning accidents in metal buckets, and the frequency and type of uses of 4-gallon to 6-gallon metal containers in the home, to determine whether special design and labeling standards are needed for such containers. The Commission shall report the results of the study to the Congress not later than one year after the date of enactment of this Act.

(b) EXEMPTION.—During the pendency of such study, metal containers which would otherwise be required to comply with the labeling requirements of section 301 are exempt from such requirements. Upon review of the results of the study, the Commission shall decide whether to continue this exemption, to require compliance by metal containers, or to consider further study in the future.

## STEWART B. McKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1993

### BOREN AMENDMENT NO. 1234

Mr. FORD (for Mr. BOREN) proposed an amendment to the bill (S. 1523) to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.
Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.
Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

**SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.**

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) by adding at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

**SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.**

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

**SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.**

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

**SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.**

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

**SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.**

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

**SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.**

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

**SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.**

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

**SEC. 9. DEFINITION OF PRODUCER.**

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(l) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

**SEC. 10. AMENDMENT PROCEDURE.**

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

**"SEC. 1655. AMENDMENT PROCEDURE.**

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

## WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

### KENNEDY AMENDMENT NO. 1235

Mr. FORD (for Mr. KENNEDY) proposed an amendment to the bill (S. 778) to amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes; as follows:

In section 5(a) of the bill, strike "11422" and insert "11432".

In section 5(b) of the bill, strike paragraph (3) and insert the following:

(3) in paragraph (2)—

(A) by striking "(2)" and all that follows in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (A) through (O) as paragraphs (2) through (16), respectively; and

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following new paragraph:

"(1) the provision of tutoring, remedial education services, or other education services to homeless children or homeless youths;"; and

Strike section 6 of the bill and insert the following:

**SEC. 6. JOB TRAINING FOR THE HOMELESS.**

(a) REPORT.—Section 736(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11446(a)) is amended by striking "the termination date specified in section 741" and inserting "the end of the last fiscal year specified in section 739(a)."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of such Act (42 U.S.C. 11449(a)) is amended by inserting after paragraph (3), the following new paragraph:

"(4) Such sums as may be necessary for fiscal year 1994."

(c) REPEAL.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

## ADDITIONAL STATEMENTS

### YOUTH VIOLENCE: LISTENING TO CHILDREN'S VOICES

• Mr. DODD. Mr. President, 2 weeks ago I shared with my colleagues terrible news from New Britain, CT.

Miguel DeJesus, an 18-year-old senior at New Britain High School, was gunned down directly in front of the school as other students looked on. He died the next day.

Authorities suspect that the shooting was gang related. This murder has caused outrage and sadness all across Connecticut, but in New Britain the impact has been especially great.

The shooting of Miguel DeJesus moved more than 60 seventh-graders at Slade Middle School in New Britain to write to me about their feelings and their fears. These letters were intelligent, sensitive, and mature, and I was very impressed with what these young people had to say.

Certain themes came through in nearly every one of these letters. One was fear. These kids are afraid to do many of the things we took for granted when we were your young.

They are afraid to walk home from school. They are afraid to play pick-up football in their neighborhood. They are afraid to set foot outside after dark. They are afraid that if they do any of these things they might become victims of violence.

Another theme was frustration. These kids feel like the problems of gangs and violence have only grown worse and that the Government has not responded.

Finally, a great sense of sadness came through in these letters. Some of these kids knew Miguel DeJesus. Even those who did not know him grieved for his family and felt that a hole had been ripped into the fabric of their community by his death.

I think these kids' words demonstrate how important the crime legislation we have just passed is for the

people we represent. For many of them, crime is their No. 1 concern, and they want to see more action, not more rhetoric.

I hope that the bill we passed here will do something to help these kids and those like them around the country. Putting more police on the beat should make a real difference. Expanding prison space to keep repeat offenders off the streets should make a real difference. But devoting resources to prevention activities that provide young people with alternatives to gangs may make the most difference.

I want these students at Slade Middle School in New Britain to know that I have heard their words, and I understand their fear and frustration.

So that my colleagues might also hear their words I ask unanimous consent that a sampling of these letters—without the students' names—appear in the RECORD at this point after correspondence from Gerri Brown-Springer, Slade's principal, and Gina Petruzzelli, the students' teacher.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Letters from Slade Middle School, New Britain, CT]

NOVEMBER 8, 1993.

DEAR SENATOR DODD: The students at Slade Middle School are feeling hopeless, afraid and powerless since the death of Miguel DeJesus on Thursday, November 4, 1993. In an effort to give them an opportunity to express themselves, a teacher, Ms. Gina Petruzzelli asked them to write their feelings and concerns regarding a fellow youth's death. They indicated that they need to write to someone who would listen. They chose you.

Enclosed is a series of letters where students have stated their fears, their concerns and their feelings of hopelessness regarding gangs and violence in their neighborhoods and school. They are asking that you do not ignore their concerns. Please write to them or when you are in Connecticut. Please come by to see them so that they will know that you support them.

As principal of Slade Middle School, I personally invite you to visit our school and especially the students who have poured out their hearts to you because they are afraid. I know that you will make every effort to visit us and talk with the students who have written letters. You are always welcome in our school.

Copies of the letters were also sent to Congresswoman Nancy Johnson.

I look forward to hear from you very soon.

Sincerely yours,

GERRI BROWN-SPRINGER,
*Principal.*

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NOVEMBER 5, 1993.

DEAR SENATOR DODD: I am a 7th grade teacher at Slade Middle School in New Britain, CT. As you are well aware of, 18 year old Miguel DeJesus, was shot outside of New Britain High School on November 4, 1993. It is said that this shooting is gang related.

As a teacher I am "unable" to teach my students today. When I say "unable" I mean that I cannot possibly stand in front of my students who are staring back at me with blank, expressionless faces or with red swollen eyes. The last thing they want to learn about as they await the announcement of Miguel's condition, is literature.

Working in an inner city school system is what I chose to dedicate my life to. I am determined to give these students hope, encouragement, and love. What I would like to know is how can I compete with a city of ruthless violence? How can I give my students hope when I myself am finding it hard to hold on to?

My students wrote the enclosed letters during the day today to ask for your help and suggestions about what to do about gangs. They are frightened, scared, ready to give up on their city and schools. Some do not even think writing these letters will help. If you can, please write or visit or send some type of message to my students to give them the hope they desperately need at this time. Let them know that someone in the United States Government knows how the students at Slade Middle School feel.

I was just informed that Miguel DeJesus died this afternoon. Now more than ever, we need your help, please.

A copy of my students letters were also sent to Congresswoman Nancy Johnson.

Sincerely,

GINA PETRUZZELLI.

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NOVEMBER 5, 1993.

DEAR SENATOR DODD: I'm a 7th grade student at Slade Middle School in New Britain I want to know what you are going to do about gang violence in Connecticut. I am very concerned because sometimes I am afraid to come to school knowing that I could be the next person to get shot at.

Yesterday, a Senior in New Britain High was shot 5 times. I want to know what are you going to do about that. You can't just have the police outside every school in New Britain it makes us kids feel like prisoners in our own school. Why should we come to school if we can't go like every one else. I am so sick of these people shooting each other because one day these people are going to mess up good. They will or may accidentally hit a innocent bystander or they could do more than they actually wanted to do.

I hope you are taking this seriously because this is no joke I am so scared that sometimes I am afraid to go outside of my house because I don't know what could be out there waiting for me outside so please try to help us because we need all the help that we can get to stop the gang violence.

Sincerely,

CONCERNED STUDENT.

P.S.—If you have time please write back to me.

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DEAR SENATOR DODD: I am a 7th grade student at Slade Middle School. On November 4, 1993 a student at New Britain High School was shot 5 times. I am worried my school could be next. I live about 4 streets away from where this has happened. I have to walk home from school everyday. You never know when someone will drive by and start shooting a gun I don't want this to happen I am afraid that everyday my father may not be able to pick me up. I am afraid to walk home. I live so close to where this happened. I'm scared to walk home. I heard Lincoln Elementary has locked every single door, so no one can go in and no one can go out, because of fear something might happen here at Slade that is gang related. I feel a little bit safer with police cars checking in on us during the day, but if by some chance anything should happen anyone can be a victim just like Miguel DeJesus was. I just wish something could be done about this.

Sincerely,

_____.

P.S.—I would like to hear what you're going to do about this, please write back to me at Slade Middle School.

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NOVEMBER 5, 1993.

DEAR SENATOR: I am a seventh grade student of New Britain Slade School. I am writing this letter because I am very concerned about the gang's in New Britain. What are the police going to do about keeping our schools from closing? What about the violence in NBHS2A senior, student was shot five times on Nov. 4, 1993, and a man was chased down Broad St. and stabbed to death by three people on Nov. 3, 1993 and it was right near the Boys and Girls Club. Now sometimes when my basketball team goes to play a game some of us are scared. Now some of the student's feel like prisoners in our own school. If we can't go to school like normal people why should we go at all? I am very angry and worried about "gang retaliation" in other NB schools. What are you going to do about it? Please Help US!

Sincerely,

_____.

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NOVEMBER 5, 1993.

DEAR SENATOR DODD: I'm a 7th grade Slade Middle School Student and I'm concerned about the people's safety in New Britain. Yesterday this guy was shot at New Britain High school like 5 times and I knew him and I feel real bad for his family. What are you going to do about gangs? I'm getting mad because everyone thinks I'm in the Latin Queens or in the Solidas but I'm not. I'm nervous because there is a Latin King that lives downstairs from me and the Solidas want to kill him so I don't even feel safe in my own house anymore. There is supposed to be a shoot out in front of my house. Anyway please try to do something about the gangs because the streets are getting worse everyday. People don't even feel safe in their own house now and days.

Sincerely,

_____.

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DEAR SENATOR DODD: I am a student at New Britain Slade Middle School. I think that all the violence is because of guns. If kids didn't have any guns this never would have happened. The kid that got shot five times was my cousin. I think they should keep many police men around the school so the kids can feel safe. I hope you help our school so we can be safe. Thanks for your cooperation senator.

Sincerely Yours,

_____.

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NOVEMBER 5, 1993.

SENATOR DODD: I'm a 7th grade student writing about the gang violence in my city (New Britain). On Nov. 4 a boy was shot five times at New Britain High, and on Nov. 3 a boy was chased down Broad St. and was stabbed death next to the Boy's and Girl's Club. I know that many kids that go there are now scared to go, and many parents won't let their kids go. On Nov. 5 when I got off my school bus this morning the guards made us go inside and I saw some cop cars around the building. Now I feel like I'm going to prison instead of school. If things keep up like this how do we know if schools are going to be safe. Cause of what happened there are no more fun after school activities. When I go home I don't go outside and play

football with my friends cause I'm scared something might happen.

Senator Dodd please send help.

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I have alot to say about what happened.

It's scary because its so close to my house. I'm in seventh grade at Slade Middle School in New Britain.

I never seen anybody get shot or killed so close to home. That's why it scares me even to go outside.

I didn't know the boy but I cried, he's like family because we live in the same city.

To stop all of this I think we have to work together and everybody has to help or it won't work.

You also have to come to schools to see how these kids are not just talk about. Come visit the schools and see.

Sincerely,

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I'm a 7th grade student in Slade Middle School in New Britain, CT. I'm very concerned about what is going on. Are you concerned? On Nov. 4th Miguel DeJesus was shot 5 times and now he is in critical condition. He has been my friend since I was a little girl. I have been hurt very deep. Before I had found out what had happened, I had come to school with police cars surrounding the school. At that moment I didn't feel like I was going in to school, I felt like I was entering a jail. Tell me, if it isn't safe to go to school and it isn't safe to walk in the streets or stay home, where is it safe? I am very scared to go out but it isn't going to stop me. I hope you understand everyone and how they feel.

Thank you.

Sincerely,

DEAR SENATOR DODD: I am a 7th grade New Britain Slade Middle School student. Our city is being called one of the worst cities in Connecticut because of the shootings at New Britain High School yesterday morning. What will you do about it. I'm sure you're doing your best but it still is not enough. Now it is harder than ever to go to school without being afraid. I guess we'll just have to take it one day at a time, till the gang violence is all gone. Our teachers told us to go home and stay inside. Now what do you call that. Our neighborhoods are no longer safe to play in. I think that if the gangs want to kill each other they should do it on their own turf. They were thinking of canceling school because of the incident. I feel like a prisoner in school. I mean, I ate lunch today but it made me feel bad when I looked outside I saw cop cars on the lawn. I came in the parking lot this morning to see 4 cop cars. That is ridiculous. My big sister used to go to New Britain High. I imagine if she got shot, that would be the worst thing that could ever happen. If I have to go to school like this, it's even worth it if you're worrying that something may happen, if you cannot go to school safely why go at all. I am against all gangs and gang violence. I would not be able to think of what I would do if one of my family members got shot. Now I know how that kid's parents must feel. If this happens again I will not ever go to school or outside.

Sincerely,

NOVEMBER 5, 1993.

DEAR SENATOR DODD: I am a 7th grade New Britain Middle School student. I'm very angry about gang retaliations. I hope people who are in gangs stop and think about what they're doing to us. Killing people for no reason, threats, why you ask? No one seems to know. I know it's probably going to be hard for you to do anything about gangs; but please try hard. I think the people who are in the gangs just need somebody to talk to. They're just taking their anger out on everyone else. Why can't people just sit and talk about their problems, or share their feelings. If people just would care about other people and care about themselves. I doubt anyone is going to listen when we tell them about peace and love for our fellow people. It's a shame. I hope you can do something about it.

Sincerely,

• Mr. SIMPSON. Mr. President, I rise to join with my distinguished colleague from Iowa, Senator GRASSLEY, in opposition to this legislation. I have the greatest respect and admiration for the sponsor, Senator HOWELL HEFLIN and I know he is a most sincere and thoughtful legislator. However, I am convinced that this legislation, however well-intentioned, is not necessary.

The Administrative Procedures Act is the mechanism through which citizens appeal agency decisions that adversely affect them. Administrative law judges were created to be an integral part of the individual agencies precisely because the individual judges possess a level of expertise not otherwise expected of trial judges. As experts in their particular fields, the ALJ's bring with them the necessary technical background to expedite the hearing process. By creating a corps of generalists, in my view, we defeat a guiding principal of the Administrative Procedures Act.

I am aware of the criticisms that have been raised against ALJ's. I believe it very important that we acknowledge those criticisms. It is true that in some instances, it appears as though the independence and objectivity of a few ALJ's have been influenced by internal agency political pressures. However, Mr. President, I do not feel that is justification for this radical change in the entire system of agency appeals adjudications.

If it can be proven that an individual ALJ has demonstrated bias or was improperly influenced, there already exist procedures for that judge's discipline and removal. If an agency persists in trying to influence its ALJ's, then the problem we need to address is the management and administration of that particular agency, not the entire system. I believe we should consider alternatives to this legislation, rather than such a broad brush approach.

For those reasons, Mr. President, I will cast my vote against passage of this legislation.•

## OBSTETRICIAN-GYNECOLOGISTS AS PRIMARY CARE PROVIDERS—S. RES. 170

• Mrs. BOXER. Mr. President, I rise today to join my colleague, Senator CHAFEE, in submitting a resolution expressing the sense of the Senate that obstetrician/gynecologists [ob-gyns] be designated primary care physicians under Federal health care programs.

The purpose of this resolution is to draw attention to the obvious. Obstetrician-gynecologists provide necessary health care services to women, and most women consider them to be their primary care physician.

According to a 1993 Gallup poll, women are more likely to have had a physical examination within the last 2 years from an ob-gyn than from any other type of doctor—72 percent versus 57 percent—and the majority of these women, 52 percent, consider their ob-gyn to be their primary care physician.

Many of us already recognize the important role that ob-gyns play in providing reproductive health services like prenatal care, family planning and screenings for sexually-transmitted diseases. We know that ob-gyns administer critical preventive health services such as pap smears and mammograms which can save countless lives. But, we may be less familiar with the primary care services they provide such as blood pressure checks, cholesterol screenings, and identification of domestic violence.

According to data from the National Center for Health Statistics, a general medical exam was the second most frequently cited purpose of patient visits to ob-gyns in 1989 and 1990, accounting for 7 million visits each year. A 1992 survey of ob-gyns by the American College of Obstetricians and Gynecologists for the Department of Health and Human Services' Office of Disease Prevention and Health Promotion, found that 71 percent routinely asked about smoking, 55 percent about alcohol use, 51 percent about diet, 48 percent about exercise, and 40 percent about emotional health.

Access to primary, preventive health care services is an important goal of health care reform, and critical to women's health. Obstetrician-gynecologists perform these services, but Federal law fails to recognize their contribution. This resolution encourages Congress to include them in Federal health care programs, like Medicaid and medical education programs, and during consideration of health care reform.

I am very pleased to join Senator CHAFEE in promoting this important issue for women. We have strong bipartisan support for the resolution and I urge my colleagues to support it.•

## THREE YEARS LATER: REPORT CARD ON THE 1990 CLEAN AIR ACT AMENDMENTS

• Mr. BAUCUS. Mr. President, as you know, on November 15, 1990, President Bush signed into law one of the most ambitious domestic policies ever—the 1990 Clean Air Act Amendments. At the time, many called this a watershed event—a turning point in environmental policy.

Three years later, it was time to review how these amendments have worked in practice. So last Monday, on the third anniversary of the signing of the law, the leadership of the Environment and Public Works Committee issued a report card on EPA's implementation of the Clean Air Act. I have attached the report card, and a summary of the staff report documenting the reasons for the grades given, to this statement for inclusion in the RECORD.

DELAYS IN CLEAN AIR ACT IMPLEMENTATION

As you can see, the report card contains some high grades. EPA has been innovative in addressing acid rain, and a world leader in preserving the Earth's protective ozone layer.

But there are also disappointments. Three years after this bill was signed, according to EPA's own estimates, almost half of all Americans still breathe unsafe air: Smog still plagues every major American city; factories still spew toxic smoke; and emissions of soot increased last year.

In large part, the low grades that we gave EPA are a reflection of problems of the last several years. Dan Quayle's Competitiveness Council and George Bush's OMB debated and delayed almost all of EPA's best efforts to implement the Clean Air Act.

I am heartened by the Clinton administration's commitment to fixing these problems. Moreover, I am confident that Administrator Carol Browner, Assistant Administrator Mary Nichols, and their new team will be able to overcome the regulatory gridlock that has characterized the process until now.

THE GRADES

Overall, we gave EPA a B minus for its implementation of the act thus far. This is not a bad grade. But it includes two D's on programs that are central to the Clean Air Act's success. And the American people will not accept a D.

After closely examining EPA's progress, we concluded that despite some progress, something is clearly wrong. EPA has missed deadlines for 58 regulations required by the act. And the vast majority of the regulations have wound up in court. And now EPA faces charges of contempt if it does not fulfill its responsibilities.

With so many court-ordered deadlines, EPA is virtually in receivership. And the problem is getting worse. Too much of EPA's budget now goes to defending lawsuits instead of cleaning the air.

REPORT'S FINDINGS ON IMPLEMENTATION

The staff report examined the problems that have hampered EPA's implementation of the Clean Air Act, and suggests some solutions. We looked at specific parts of the act, like acid rain and toxic pollution, and searched for the larger lessons. In short, we tried to learn what works and what doesn't.

Some have concluded that EPA's poor track record can be blamed on not enough money, not enough staff.

There may be something to that. And I hope EPA and the Clinton administration will remember that most Americans still breathe dirty air the next time they sit down with the OMB budgetmakers.

However, in the big picture, what most clearly does not work is EPA's bloated bureaucratic process. One Example: EPA has worked on one single regulation)—the HON rule—for more than 10 years and still has not finished it.

So before we start throwing good money after bad, EPA must reinvent its internal regulatory process to make it more timely and more efficient.

Others have concluded that EPA's failures may have been the result of the act itself. There are hundreds of pages in the Clean Air Act, and it is always possible that Congress may have asked EPA to do too much.

But I don't believe the act itself is the problem. You need only to look at the act to see that certain provisions have work quite well.

For example, EPA's use of market forces has done a great deal to curb acid rain and ozone depletion—while giving businesses the flexibility to comply with the law in the most cost-effective way possible.

Another proven success are the act's performance standards. In the case of Clean Car program—the act requires the sale of cleaner running cars to be sold in California by 1996. These tough standards have forced automakers into higher gear to develop more efficient, smog-free cars.

NEXT STEPS ON CLEAN AIR

There are also broader lessons about our environmental laws. Before we begin to pass a whole new set of environmental laws, Congress and the administration should pay much more attention to making programs already on the books—like the Clean Air Act—work better.

I am convinced that in the future EPA can earn better grades by setting priorities and targeting the most serious problems first. And I am determined to see that they do all they can to make this law work.

CONCLUSION

The American people want clean air and a clean environment. In a recent survey by Money Magazine, clean air and clean water were readers top concerns, ranking higher than medical care, good schools, and low taxes.

So what we did in 1990 had a point. It was not simply to pass a complicated law. It was to clean up our air. That is a scared commitment we have made to the American people. I am determined to keep this commitment—and to see that EPA, the States, and everyone else involved remains equally committed to this important responsibility.

Finally, I want to thank Senators LIEBERMAN and CHAFEE for joining me on this report card. I know they share my commitment to vigilant oversight of this important environmental law. I also want to commend their staffs for their fine work in drafting the report. Finally, I would like to thank all those who wrote the committee or testified before it expressing their views about the act and its implementation.

Mr. President, I request the following material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*Environment and Public Works Committee Leadership—Interim Report Card on EPA's Implementation of CAAA of 1990*

| Subject | *Grade* |
|---|---|
| Title I—State Implementation Plans | C |
| Title II—Section 177: California Low Emission Vehicle Program | D |
| Title III—Development of MACT Standards | D |
| Title IV—Acid Rain Allowance Trading Program | A |
| Title V—Section 507: Small Business Assistance Program | B− |
| Title VI—Stratospheric Ozone Protection | A |
| Average Grade | B− |

Scale: A=Excellent; B=Good; C=Fair; D=Poor; F=Failure.

EXECUTIVE SUMMARY

During 1993, the Senate Committee on Environment and Public Works and its Subcommittee on Clean Air and Nuclear Regulation conducted extensive oversight of the implementation of the Clean Air Act Amendments of 1990. On this, the third anniversary of passage of that sweeping environmental legislation, it is time to assess how well the Environmental Protection Agency [EPA] is carrying out the act. This is a mid-term report card on implementation, not a final grade on EPA's performance. It is intended to highlight the subjects or provisions of the amendments in which EPA has excelled, and give warning in those areas where there are concerns about EPA's implementation.

There are some very high grades on this report card, and some low ones too. On average, however, EPA earned a B minus for its efforts.

These grades are an assessment both of the timeliness and the substantive content of each subject. However, they only cover a fraction of the amendments. For example, the grade for EPA's role in implementing section 177 of title II of the amendments is not intended as a grade for EPA's implementation of title II overall. Indeed, EPA

has performed well in some areas under title II. Section 177 and the other subjects for this report were selected because they are representative of larger issues or lessons learned in implementation of the amendments.

This report details the specific reasons for the grade in each subject. In short, EPA received low marks for its work on State Implementation. Plans in title I and the development of the MACT standards in title III due to its tardiness in preparing important regulations, guidelines and approvals and the inadequacy of some of these measures. Delays by EPA and the States seriously jeopardize both of these important programs. On the other hand, EPA received A's for both the Acid Rain Allowance Trading Program and the Stratospheric Ozone Protection Program because of speed in implementation and effectiveness in eliminating the pollution problem at hand. The grades for section 177 and section 507 are poor and fair respectively because EPA has not been particularly aggressive in its implementation of either program—the difference in the grades results from the degree to which EPA has been inactive.

In addition, each chapter is more than just a narrow examination of one issue of provision of the amendments—it represents a broader theme or problem with implementation. These larger, cross-cutting issues are: (1) whether EPA gives the States sufficient guidance and support to carry out their extensive responsibilities under the act; (2) whether the EPA has an institutional problem with its regulatory process or just a mere lack of resources that results in excessive delays in implementation; (3) what type of technology standards embodied in the amendments are successful in spurring the development of new technological advances; (4) whether harnessing market forces can be effective in controlling pollution; and (5) whether any real progress has been made in reducing the health and environmental hazards associated with air pollution.

In sum, 3 years after enactment of the amendments, EPA needs to improve its performance in some critical areas. We have some concerns about EPA's implementation of the law thus far. In the report the committee has made specific recommendations to guide EPA toward what we believe to be successful implementation. The most important of these recommendations are summarized below.

1. EPA should prioritize better—EPA should react more quickly to changes in assumptions about health effects of pollutants (such as PM-10), reviewing the SIPs promptly, especially those submitted today, and the entire air toxics program. Administrator Browner has said on the record that resources are insufficient for the task, thus better prioritization of the tasks at hand will result in more effective implementation. EPA should maximize the effectiveness of its resources by focusing efforts on issues with the largest potential for reducing risk to public health and the environment.

2. EPA should provide greater leadership to the States—EPA should be more aggressive in its support for State activities that go beyond the minimum requirements of the law—because most States must do so in order to meet Federal health-based standards. On the other hand, EPA must be firm and fair with States in order to ensure that they meet the minimum standards. EPA should not micromanage or overly prescribe solutions to the States. In fact, many States complained that EPA did too much of both. Rather, by strictly enforcing the statutory requirements and issuing regulations promptly, and by aggressively assisting States that wish to or need to go beyond them, EPA will improve its relations with the States.

3. EPA must improve its regulatory process—The process by which EPA promulgates regulations is too bureaucratic. There are too many people at too many levels reviewing too many documents. All have the power to veto and delay. In addition, EPA must take a serious look at its resources and determine what its real needs are. If the Agency does not have enough money and people to do its job, then it must say so. If it has sufficient resources, then it must perform.

On the other hand, EPA's performance has been excellent in two areas that were catalysts for the amendments—the reduction of acid rain and the elimination of ozone-destroying compounds, including chlorofluorocarbons [CFC's]. Although the acid rain program has had some growing pains, indications are that it is reducing emissions of sulfur dioxide at a greater rate than expected and at lower cost. Similarly, the phaseout of the use of CFC's has gone extremely well, with both EPA and businesses rising to the challenge.

Finally, there are two important lessons learned from this review.

1. Market-based systems can work—As discussed above, the experiment with the acid rain allowance trading program seems to be a success. Using the market has made it easier and cheaper to comply. But market mechanisms may not be appropriate in all cases. We should continue to monitor this program, and others like it, to achieve greater understanding about how best to use market forces for environmental protection.

2. Bright line performance standards force rapid technology development—The phase out of CFC's and the California low emission vehicle program are two examples of bright line performance standards, which are based on environmental goals not preselected technologies that have produced tremendous results. Setting the standard, and then giving businesses the flexibility to achieve it in the most efficient way, has led to the development of technological advances under the amendments. Nevertheless, like market systems, these cannot be adopted in every case. The committee must continue to study when and how bright line performance standards can be used effectively.

The committee should look for appropriate opportunities to use these two policy options in its future reauthorizations and development of environmental legislation.●

## IN HONOR OF ROBERT B. HAWKINS, JR.

● Mr. DURENBERGER. Mr. President, I rise today to congratulate and thank Robert B. Hawkins, Jr., for his tireless work and tremendous achievements as Chairman of the Advisory Commission on Intergovernmental Affairs [ACIR], and to wish him continued success as he moves on to other pursuits.

Bob was appointed by President Reagan in 1982. As only the fifth Chairman in the 34-year history of ACIR, his service over the last 12 years has made him the longest serving Chairman in the history of the organization.

He has led the Commission during a time of change in which the importance of the mission of ACIR has grown significantly. Cooperation between State Governments and the Federal Government is more important now than ever as budget constraints have created a need to redefine the purpose and role of Government.

I have been a member of the Commission longer than Bob. So together we have enjoyed lengthy conversations about what should be and what could be. Bob Hawkins has an entrepreneurial spirit about Government. He is ahead of his time. Washington and State capitals have yet to catch up. He was reinventing government before the author thought to write the book with that name.

Bob Hawkins has provided the forum through ACIR for this debate. The Commission has achieved the highest level of productivity in its history under the leadership of Bob Hawkins. Moreover, he has done this with 35 percent fewer resources. Appropriations for ACIR have decreased 35 percent since Bob assumed, but he has increased productivity nevertheless. He has shown a good example of what government can accomplish—better service for less cost.

ACIR can be held up as paradigm of government efficiency. The Commission's publication "Intergovernmental Perspective" is a quarterly magazine that is highly informative and beneficial for those across the country who are working to make government better. This magazine is a resource tool

for tens of thousands of Americans and it provides a forum for stimulating the discussion of new ideas.

Bob Hawkins has brought ACIR to the forefront of the current debate on government reform. ACIR has played a crucial role as a resource to Vice President AL GORE'S effort to reinvent government. The National Performance Review has stressed the need for cooperative intergovernmental relations in the pursuit of better government, and held up ACIR an example of how best to work toward this goal. This has all been possible because of the leadership of Bob Hawkins.

Bob's personal commitment and management skill will be dearly missed, but he leaves a legacy of success and a Commission poised to lead the way toward government reform.

I thank him for his selfless commitment to public service, and for his foresight in stressing the importance of State, local and Federal Governments working together for the good of the country. We will miss him on the Commission, but wish him luck in his new pursuits.●

## FORT PECK INDIAN TRIBE LEGISLATION

● Mr. BAUCUS. Mr. President, I would like to assert for the RECORD that it is my intent to introduce legislation to ratify the Fort Peck Indian Tribes-Montana Reserved Water Rights compact early next year.

This same legislation was reported out of the then Select Committee on Indian Affairs last year, but proceeded no further because of concerns raised regarding certain provisions of this compact with respect to the impact it could have in water flows in the Missouri River. Let me clearly state that it is my intent to move this legislation forward.

Let me also clearly state that it is my intent to work closely with the Fort Peck tribes, the distinguished chairman of the Indian Affairs Committee, the State of Montana, and my distinguished colleagues from downstream States to address those concerns in a manner that is mutually satisfactory. I do not anticipate that this will be easy, but it is essential.

We have delayed the implementation of the Fort Peck Indian Tribe-Montana compact for far too long. Although difficult issues remain, we cannot allow them to stand in the way of resolution. We must sit at the table together until we reach an accord. I am committed to that effort and look forward to the work that lies ahead.●

## EQUITABLE ESCHEATMENT BILL

● Mr. SIMON. Mr. President, I rise today as a cosponsor of an important bill that is being introduced today—the Equitable Escheatment Act of 1993. I want to commend my colleagues from Texas and California for introducing this legislation and those Senators on the Banking Committee for their support.

Although the escheatment bill has an involved history, it can be summarized in the following way. This bill would allow owner-unknown interest and dividends on bonds and stocks to be claimed by, or escheat to, the States where the companies issuing the owner-unknown funds have their principal executive offices. This is a slightly different approach than letting the owner-unknown funds escheat to the State where the financial intermediaries are incorporated, but a very important distinction.

There are several compelling reasons to enact this legislation. First, this legislation is consistent with the conclusion reached by a grand master appointed by the Supreme Court. The grand master found that the funds should go to the States where the principal executive offices were located.

It is also a matter of simple fairness. We must protect the interests of our States' citizens, and no one or two States should be allowed to benefit solely from the fact that these funds have to pass through their States before being returned to their rightful owners.

And, Mr. President, this money should rightfully go to the States where the company distributing the funds has its principal executive office. This is what this bill calls for. Not the State of incorporation—but the State where the investors and the taxpayers reside. We protect the rights of those people who took the risk of investing and the rights of the companies that are responsibly paying their obligations. At least these citizens and companies will be able to benefit indirectly by having the funds return to the State where they can impact the original parties.

The funding we are talking about for many States is not insignificant. In Illinois alone, this bill would bring $60 million to the State treasury from unclaimed property in the first year. In years after, it is estimated that $6 to $9 million would be distributed annually to the Illinois State Treasury. That is $60 million that can be used for education programs, money for low-income housing programs, money for job training and for worker dislocation programs.

Illinois is not the only State that would benefit from this bill. In fact, 47 States have reasons to want this legislation to pass—not three.

Mr. President, I look forward to passage of this legislation because it is important to Illinois and every State in our Nation.●

## DELINQUENCY PREVENTION COMMISSION OF SAN FRANCISCO

● Mrs. BOXER. Mr. President, next month, the City and County of San Francisco's Delinquency Prevention Commission will celebrate its 25th anniversary of service to the young people of San Francisco.

This commission, composed of 19 hardworking men, women, and youth from all walks of life of San Francisco, coordinates services and advocates for young people facing high risk situations. Without a budget to give grants on its own, the commission depends upon its good will, initiative, creativity, and persuasiveness to gain cooperation from over 200 private and public partners who have a vision for the city and a commitment to children and youth.

Mr. President, in my first year in this body, I have done what I can to support children and families and this body has successfully taken up family leave, health care and anticrime bills to meaningfully address these matters. Groups like the delinquency prevention commission take up where we leave off.

Just in the past year, the commission has been the principal convener of the Come into the Sun Coalition which has focused on mentoring young women at risk and other projects; established the Youth Employment Coalition of 55 agencies providing education, vocational training and job placement services for young people in every neighborhood of San Francisco; staffed the Gay Lesbian Youth Advocates of nearly 30 agency representatives for services throughout the city; and most recently started Kujichagulia, a coalition focusing on the needs of African-American young people.

The concerns of young people should be the concerns of everyone. I am pleased to commend the San Francisco Delinquency Prevention Commission for a quarter century of having a positive influence on San Francisco's youth. I can think of no greater cause than the legacy the commission leaves and the work it continues to do.●

## MEDIA AND VALUES

● Mr. SIMON. Mr. President, Media & Values is a magazine published quarterly by the Center for Media and Values, a not-for-profit education membership organization dedicated to providing individuals with the tools to view the media critically. The summer issue of Media & Values addresses media violence. It provides a well-balanced look at this issue and is worth reading.

One of the articles entitled "Suggestions for Parents: Children Can Unlearn Violence," is of particular interest. Written by Judith Myers-Walls, an associate professor of child development at Purdue University, the article discusses what parents can do to help

their children view television critically. I ask that a copy of this article be included at the end of my statement.

It is my understanding that the Center for Media and Values will publish a second magazine dedicated to television violence shortly. This issue will focus on creative options for changing the climate which promotes media violence. I look forward to reading this and commend the center for its outstanding work.

The article follows:

SUGGESTIONS FOR PARENTS: CHILDREN CAN UNLEARN VIOLENCE

(By Judith Myers-Walls)

As a child development professional with two school-age children, my primary concern regarding my children's exposure to television is the violence they see. Although there are some sexual themes on television that are too intense for them, and a steady diet of adult language is likely to lead to problems, it is the violence that bothers me the most.

Critics worry that children will imitate the violent acts they have seen, either as children or youth or as adults. I do not worry about that; my children are not likely to participate in criminal aggression. Minor aggression can be a problem, though. What parent has not had to control the children's karate chops after they watched the Teenage Mutant Ninja Turtles?

TRAUMATIZED BY TV VIOLENCE

A more realistic concern for me is that my children may be traumatized by televised violence. When the unthinkable is presented, not only does it become thinkable, but it may become haunting. A study in Kuwait after the Persian Gulf War found that some children who were nowhere near the violence showed more trauma symptoms than those who were—a result of being shown propaganda videos of torture and violence.

A diet of violent programming could teach my children that the world is a dangerous place. They could assume that murders, rapes and kidnappings take place in the real world at the same rate as on television, which, fortunately, is still far from true. They might become convinced that there are evil people everywhere who threaten the safety of good people. Most significantly, television teaches that the only way to deal with those people is by being violent yourself, because TV teaches that that is the only way to control evil people.

Like others their age, my children and their friends do their best to appear unaffected by the media violence they see, so they will not appear weak or prudish. With some children, it can become a contest. The quantity of violent media and the impersonal but graphic way violent content is presented can lead quickly to a tough, unaffected response. Such desensitized children learn to avoid taking responsibility for the violence around them; they may even be able to watch a real life violent event with no emotional response and no sense of personal obligation to react.

TOO MUCH VIOLENT FUN

Cartoons and other children's programming present their own problems. They may even contain more violent actions, but the real problem is their presentation of violence as fun and entertainment. Violent actions have no lasting consequences, and it is proper to laugh when a character gets hit in the head with a mallet or gets smashed flat. This may teach children to laugh when real people get hurt. Booby traps and falls become funny.

The Home Alone movies put that same consequence-free slapstick humor in a realistic setting. I watched my son and his friends sketch out and reenact that movie over and over. Finally, my son and another seven-year-old boy drove a nail through a board and left it point up on the other boy's basement stairs. The friend was surprised and sobered when his mother's foot bled after she stepped on it. "There wasn't any blood when they did it in the movie." he said.

Media critics call for voluntary restraint or regulation to reduce the amount of violence in the media. But that solution takes time. I cannot wait while the larger public policy issues are addressed.

MAKING CONNECTIONS AT HOME

A first step I take is to help my children recognize the difference between reality and fantasy. We work on media literacy skills so they can recognize special effects and understand when actors are pretending to hurt one another or be hurt. To avoid the trauma that may come from violence, I try to help them distance themselves from the images.

I monitor what my children are watching, and some programs are off limits. It is important to avoid making violent programming "tabu" and therefore desirable, however. I sometimes watch milder action programs or programs with a historical background with my children. This satisfies their curiosity, and my comments can help provide the right context. I explain how media producers use manipulative techniques and how children can be smarter than their manipulators by refusing to be pulled in.

Most important, I teach my children alternatives to violence. The trauma and desensitization of violent programming can affect all children. But children most at risk for imitation are those whose parents' attitudes and behavior either reinforce it or leave a violence vacuum with their own attitudes unstated. That's when children are apt to imitate violence they see and hear.

Simply telling children that violence is not the way to deal with problems is not enough; I discuss what should be done instead. Children have many models of violent response through the media. They need models and training in nonviolence to be able to resist those images.

Judith Myers-Walls, Ph.D., is an associate professor of child development at Purdue University in Lafayette, Indiana. She has two children, Aaron, 8 and Amanda, 12.●

## INVESTMENT ADVISER OVERSIGHT ACT OF 1993

● Mr. D'AMATO. Mr. President, I am pleased that today the Senate has passed the Investment Adviser Oversight Act of 1993. Now more than ever, with individuals seeking investments that yield a higher rate of return than traditional bank instruments, individuals are relying on investment advisers to make their investment decisions. This bill will provide the SEC with additional funds to ensure adequate inspection of investment advisers and provides for an additional safeguard to further protect customers of registered investment advisers.

During the last Congress, the Securities Subcommittee held hearings regarding investment advisers and the need for increased regulation in this area. During these hearings, the committee members heard numerous horror stories from individuals who relied on the advice of their investment adviser and ended up losing their entire investment—which in most cases was money earmarked for retirement.

At one of these hearings, a surgeon testified that he had been bilked of $500,000 by his investment adviser. This man's adviser ended up fleeing to Taiwan with a total of $4.4 million of his client's money—in cash literally stuffed into a suitcase. Another witness testified about her adviser who convinced her and 1,000 other individuals who shared conservative investment goals to invest a total of $55 million in a leveraged rare coin portfolio and condominium.

These stories are real, and the victims of investment adviser fraud are left with no redress but the expense of a lawsuit to try and collect a portion of their original investment. Oftentimes there is nothing left to collect.

As these and other stories reveal, many individuals who are unsophisticated in matters involving investment alternatives rely on advisers to make their investment decisions. As a result, regulation of investment advisers must be sufficient to protect investors from unscrupulous operators entrusted with investor funds.

Althout the Investment Advisers Act of 1940 requires individuals who come within the definition of investment adviser or financial planner to register with the SEC, the SEC does not have sufficient resources to adequately regulate this industry. Indeed, in the words of the former head of the SEC, Chairman Breeden, the adviser regulatory program is "totally inadequate."

By 1981, there were 4,580 advisers registered with the SEC. At that time, 36 SEC examiners were able to make periodic inspections of these 4,580 investment advisers' books on an average of once every 12 years. In 10 years, the number of registered investment advisers nearly quadrupled to 17,500. The SEC examination staff, however, has only increased one quarter—to a total of 46 examiners.

The number of investment advisers has grown so rapidly that the SEC can now only inspect the books of most investment advisers once every 30 years—in most cases this amounts to no regulation at all.

The Investment Advisers Oversight Act of 1993 will fill this void in investment adviser regulation. Right now, investment advisers pay only a one time fee of $150 upon registration. This bill requires registered investment advisers to pay annual fees based on the dollar amount of the assets they manage. These fees will be used by the SEC to increase its examination staff so that

advisers will be inspected every 3 to 5 years, depending on the size of assets under their management.

The Investment Adviser Oversight Act of 1993 also gives the SEC authority to require advisers to obtain fidelity bonds to protect investors who are the victim of theft or embezzlement.•

## RECOGNITION OF JOHN KINCAID

• Mr. DURENBERGER. Mr. President, I rise today to thank Mr. John Kincaid, the Executive Director of the Advisory Commission on Intergovernmental Relations, for his service to our government.

ACIR was established by President Eisenhower in 1959 to foster closer working relations among Federal, State and local governments. It has 26 members, drawn from States, localities, Congress and the executive, all of whom meet regularly to discuss partnerships among the three levels of government. I am a long-time member of this Commission.

John has served as the Executive Director of the Commission for the past 7 years. He is on leave from the University of Northern Texas, and will now be returning to his home there.

John has been an effective and efficient administrator, and has overseen the smooth operation of the Commission. His dedication and organization have made it possible for ACIR to achieve the successes that it has enjoyed over the years.

The publications that ACIR produces, such as "Significant Features of Fiscal Federalism and Intergovernmental Perspective," are used by tens of thousands of people in and out of Government. John's skills in overseeing the publication process, while concurrently administering the agency and advising the Commissioners, is exemplary.

John's selfless service to Government and strong leadership skills have helped ACIR play an important role in assisting Vice President GORE's efforts to reinvent Government. The example of efficiency and cost-effectiveness as set by ACIR is a model for other Government agencies. John's leadership, even during a time of reduced budget for the agency, has made ACIR more efficient than any time in its history.

I thank him for his service and I congratulate him on the many achievements that occurred at ACIR during his tenure. I extend to him my best wishes for continued success in his return to academia.•

## THE KERREY-BROWN DEFICIT REDUCTION PROPOSAL

• Mr. DURENBERGER. Mr. President, I rise to register my strong support for the deficit reduction plan that has been offered by my distinguished colleagues from Nebraska and Colorado.

As a cosponsor of this legislation, I must also express my deep disappointment that this body will not have an opportunity to formally consider such an important and needed proposal prior to our adjournment for this year.

I want to begin, Mr. President, by applauding the leadership on this issue exhibited by Senators KERREY, BROWN, and others in this body, as well as by Congressmen PENNY, KASICH, and their allies in the House.

Cutting spending is not something we do either willingly or well in this body. Politicians have never been very good at saying "no." It's much easier to promise and deliver new or bigger programs, or, even better, to make new financial commitments we do not even have to explicitly renew each year.

So, it is no wonder that our total national debt has now grown to 4.3 trillion. And, despite all the legislative arms we saw twisted and broken over this year's budget bill, that huge obligation being placed on future generations will grow by another trillion dollars in the next 5 years.

I should note, Mr. President, that those of us on this side of the aisle were not asked to help make that number smaller. And, when the budget bill came to the floor, we all voted "no."

A few brave colleagues on the other side voted with us and some, like our distinguished colleague from Nebraska, went along with the President's plan, but insisted that it not be the last chance we had this year to do even more.

### DEFICIT REDUCTION AND POWERFUL SPECIAL INTERESTS

As the Kerrey-Brown proposal was circulated this week, Mr. President, one could quickly see why it is so difficult to take on the very tough job of reducing the Federal deficit.

Behind each of the dozens of programs being cut in this proposal is a long list of well-meaning interest groups, and powerful allies in the Congress and the administration. In fact, I could tell what programs were being cut just by looking at my incoming mail and the report my staff gives me each day on calls coming into my Washington and Minnesota offices.

### AN IMPORTANT PLACE TO BEGIN TO MOVE AHEAD

Senators KERREY and BROWN have put together a $109 billion package of specific budget cuts. Sure, some are controversial, but the important thing is that Senators are willing to stand up and support a significant decrease in the deficit, despite all of the procedural and substantive reasons not to support this kind of proposal. There are specific cuts in this package that I would rather not have included, such as the cut in the Legal Services program.

However, Mr. President, all we need is an opportunity to consider this proposal. Then we can get down to the business of negotiating to achieve the best possible combination of cuts. The important thing is that a bipartisan group of Senators are committed to support $109 billion of additional cuts beyond what we have accomplished this year in the budget process and in addition to what will be submitted by the President in next year's budget request.

In my judgment, it is pure folly not to support this proposal just because there may be a few specific cuts that do not seem justifiable or which might be used as offsets for other proposals such as health care reform. The package can be adjusted as needed, as long as we stick to the $109 billion goal. The real challenge before us is to just find the opportunity to pursue this needed deficit reduction without the usual roadblocks.

### FUTURE GENERATIONS ARE WATCHING AS WE REFUSE TO ACT

Unfortunately, Mr. President, future generations cannot vote and do not lobby. So, I have not heard from a lot of stakeholders that I should support deeper cuts in Federal spending. Certainly, no one is stepping forward and offering to give up their piece of the pie.

That means we need to look to the President and the Congress for leadership—to place the collective public interest above selfish individual interests that so often stifle real change.

But, how did we spend the bulk of our time this past week, Mr. President? If my memory serves me right, we debated and passed a crime bill.

I did not vote for that bill for a lot of reasons. But, one of the biggest was the way we so casually took $22 billion I thought was headed for deficit reduction and spent it instead on this week's highest national priority—new prisons and more cops.

Not that we do not need to be doing something as a nation to combat crime. I just find it incredibly ironic, Mr. President, that one more example of failure by my generation to take responsibility for its actions is being passed on—in so cavalier a manner—to our kids.

### LESSONS NEED BE APPLIED FROM THE PAST

It was 15 years ago this month I was elected to this body on a wave of anger that started in places like Minnesota and that produced a Republican Senate and new Republican President 2 years later. Americans at that time were angry with a Government that cost too much and delivered too little.

And, we did deliver on at least half the assignment we were given. We cut taxes. We put more money in the hands and pockets of Americans. And, we produced the longest peacetime period of economic recovery in this Nation's history.

But, any child can understand that if you cut taxes, but do not cut spending, you only run up the deficit. And, that is exactly what we did.

It is not that some of us did not try to do otherwise. In fact, three of our

colleagues became household words over a deficit reduction law that gave many Americans the impression we were cutting spending at the same time we were cutting their taxes.

But, even before there was Gramm-Rudman-Hollings, Mr. President, there was a little known piece of legislation called Durenberger-Gorton. It required the President to submit a balanced budget each year, alongside his usual unbalanced budget. That would at least force all of us—both Congress and the administration—to see the kind of tough choices that enacting a balanced budget would require.

THE DAWN OF A NEW NATIONAL MOVEMENT—GENERATIONAL EQUITY

Unfortunately, Durenberger-Gorton was never enacted. And, even through three or four incarnations of its more famous cousin, deficit reduction all through the 1980's did little more than place a small bandage on a deep wound in America's jugular. And, as life continued to drain from America's future, my generation continued to live for today.

I saw all that happening, Mr. President, at about the same time my own four sons were entering adulthood. So, this preoccupation with the intergenerational injustice going on was, for me, as real as watching my own children being handed a life that held much less promise than the opportunities I was handed by my parents just 30 years earlier.

My personal turning point in dealing with that injustice was a speech I gave in the spring of 1984 to graduating seniors—and their parents and grandparents—at St. Olaf College in Northfield, MN. That speech was about debt—personal debt, corporate debt, and national debt—and how it represented an incredible and unfair burden being shifted from one generation to another.

During the rest of that year, I launched a new national organization called Americans for Generational Equity [AGE]—an organization to educate my generation and to give some hope to the next.

Like a lot of good ideas, AGE had trouble in today's conflict-conscious society in communicating its purpose. Much of the media immediately saw AGE as a wedge designed to turn one generation against another. Some interest groups representing older Americans saw AGE as a threat to the gains their generation had made * * * a means to shift wealth from one generation to another in the increasingly zero sum mentality of the 1980's.

But, despite these obstacles, AGE did have some impact on our understanding of the deficit and its meaning to future generations. And, through speeches and publications and conferences, many of us saw the same intergenerational implications of decisions we make about our physical infrastructure, how well we take care of our environment, and what priority we place on investments—like prenatal care, child immunizations, Head Start, or WIC—that we make in our Nation's youngest citizens.

As I prepared for what I hoped would be a real Senate debate on the Kerrey-Brown proposal, Mr. President, I reviewed some of the speeches I gave during that period of the mid-1980's.

The only changes needed to use those speeches today are to double or triple the size of the numbers. And, therein lies the urgency of acting now—not next year or in some future year—to make the kind of real spending cuts that we as a nation must make.

In one of those speeches—a 1986 talk my staff still calls the "Fork in the Road Speech"—I warned of the evils of what was then a $2.1 trillion deficit and spoke optimistically of the new Gramm-Rudman-Hollings law that would bring the annual deficit down to zero by 1991.

I also suggested four important steps this Nation must take—beyond Gramm-Rudman—if that goal were to ever be realized.

First, stop pointing fingers up and down Pennsylvania Avenue; stop blaming past policies; and start aiming ourselves toward a better Government in the future.

Second, enact deeper spending cuts beyond Gramm-Rudman—including an immediate leveling off in our extraordinary defense build-up, and additional cuts and reforms or elimination of general government programs.

Third, reform our entitlement programs—including additional cuts or reforms in nonmeans tested programs like Medicare.

And, finally, I said, "there is simply no way we can get from a $220 billion deficit to zero without raising more revenue from tax reform than the President proposes."

That advice is just as valid today, Mr. President, as it was in January of 1986. And, the urgency of following that advice today is even greater.

REAL REFORM MEANS AGREEING ON NATIONAL PURPOSES

Gramm-Rudman-Hollings is not the only tool we have tried to use in reducing the deficit, Mr. President. We also tried—and failed—to pass a balanced budget amendment, a line-item veto, and many other approaches designed to institutionalize greater discipline and restraint in federal government spending.

And, many of us remember that dramatic evening in 1985 when the now-Governor of California was wheeled into this Chamber to cast the deciding vote on a truly courageous deficit reduction package I am proud that my party in the Senate was willing to put forward.

We lost that opportunity when the President and Speaker of the House cut us off at the knees. And, left politically exposed, enough of my Republican colleagues were turned out of office the next year to make a former federal judge from Maine the majority leader of the U.S. Senate.

One reason all these good faith efforts have failed, Mr. President, is that we have not collectively agreed on a meaningful set of national purposes that could be used as a guide.

Also in an earlier era—during the height of the Reagan revolution—I outlined my own guideposts for agreeing on national purposes.

"Just because potholes are a problem in every community in America," I was fond of saying in those days, "does not make 'pot hole filling' a national Government responsibility."

To decide what is, I suggested a series of guideposts that included:

"The national Government has the responsibility to secure the national rights and liberties guaranteed by the Constitution to all Americans."

"The national Government has the responsibility to defend American interests and conduct foreign relations in the community of nations."

"The national Government has the responsibility to promote economic growth and regulate interstate commerce."

"The national Government has a responsibility where significant savings can be realized by operating a central program."

"The national Government has a responsibility where significant benefits are realized by citizens in more than one State."

"The national Government has a responsibility when national decisions impose extraordinary costs on some States or regions of the country."

"The national Government has a responsibility when competition among the States keeps them from implementing programs that would make all better off."

"The national Government has a responsibility to ease the disparities in fiscal capacity among the States."

"And, the national Government has the responsibility to provide for the income security of all Americans."

This kind of a list—used to sort out responsibilities among various levels of government—is as needed today as it was a decade ago.

And, it is not just needed in cutting Federal spending or eliminating national Government programs.

Having a firm sense of national purposes must also be at the heart of any national program to reform health care, reform our Nation's welfare system, better prepare Americans for school or work, or any number of other proposals now on the Nation's political and legislative agenda.

LET US HAVE THE COURAGE TO MOVE FORWARD

I believe we can design a $109 billion deficit reduction package that is based

on this proposal, Mr. President. I was prepared to move ahead this year. I regret that others in this body disagree.

I personally believe that deficit reduction is an issue on which the American people are way ahead of their politicians. Because of the kind of grass roots leadership and education being done by groups like the Concord Coalition, I believe there will be a political safety net out there for those of us willing to take the plunge.

I have just 1 more year to make good on that opportunity, Mr. President, an opportunity I saw a decade ago and an opportunity that our children must not let us ignore.

Let me conclude with a challenge I set down in a speech I gave to the Minnesota Jaycees annual convention in 1985.

"Dealing with generational equity," I told this group of young men and women, "will take the very patient bringing together of grandparents and grandchildren, the facing of the realities of what we are doing to each other in our desire to have without paying. It doesn't mean that we've got to do without grandfolks. It does mean that we have to plan now for the kind of future we have an obligation to pass on to the next generation.

"These are difficult problems requiring tough solutions. But, history tells us that the safest course at difficult times in our lives is to tackle our problems head on. In this nation, there are more than enough ideas, and more than enough determined individuals like yourselves to meet these difficult challenges.

"We who have lived with these problems desperately need you, who are unwilling to live with them, to show us the way."

We still face that difficult challenge in 1993, Mr. President. And, all of us need to be willing to pick up that challenge and to show the way.

Thank you, Mr. President. I yield the floor.●

## THE CRIME BILL

● Mr. McCONNELL. Mr. President, for too long we have debated crime bills designed to protect politicians from defeat rather than to protect Americans from crime. We must do better this time. Those matters that we can quickly reach bipartisan consensus on—more prisons, stiffer sentences, more police officers—must be enacted. This Congress. This year.

The crime debate is replete with statistics. But raw numbers—crime rates, recidivism rates—do not present a complete portrayal of the crime problem. The increasingly vicious nature of crimes cannot be quantified. The cool detachment of criminal predators does not lend itself to statistical analysis. The almost palpable fear gripping many neighborhoods cannot be conveyed on a floor chart.

Mr. President, Americans do not need reports from the Bureau of Justice Statistics to know there is a serious problem. They do not need Congress to declare it. They do not need GAO to study it. They live it every day. They fear it every night. It is pervasive in millions of Americans' daily lives. Fear is present when they walk through the parking lot, drive on the streets and highways, and sleep in their homes. Americans fear for themselves and their loved ones. They feel for those they read about or see on the evening news—the statistics.

The floor statements over the last few days have forcefully and eloquently acknowledged the violent crime epidemic. It is difficult to put into words the rage, the frustration, which we all feel at the unending rampage of violence in this country. Conveying with words the brutality on our streets perhaps requires the literary skill of horror novelist Stephen King.

We have heard many horrendous events related on this floor. Some of us even have personal experiences, friends or family who have been victims. But I do not believe that most of us, Members or staff, can really understand the fear that grips the most dangerous neighborhoods. Can we truly imagine the terror that causes young children in urban war zones to sleep in the bathtub, so that spraying bullets will not strike them dead in their sleep? Have salesmen knocked on our doors to pitch life insurance policies in the event of our children's death?

Many of us, women particularly, probably have known the momentary terror of a strange noise in the dark. A menacing sound which make the heart pound out of fear and causes the mind to conjure up terrible images. Who has not wondered for a moment whether to alert the police when a loved one is late returning home? It is a new dimension of life in America. The constitutional promise of life, liberty and the pursuit of happiness has been violated by the fear of crime.

Fear, Mr. President. It's become an industry in America. Products such as "Charlie Bars," "double-keyed deadbolts," "motion-detectorlights," "Central-monitored alarm systems," "The Club," "pepper spray"—have become essential purchases for security conscious, law-abiding, fearful Americans.

Fear did not used to be so commonplace. Crime did not used to be so pervasive. So random. So senseless. So inexplicable. What has caused this violence? There are more questions than answers.

But most of the social scientists who have studied the rising crime rate, including noted criminologist James Q. Wilson, have concluded that the heart of the problem lies in an eroding moral base.

One thing is for certain, Mr. President, someone with a fundamental sense of right and wrong, a shred of regard for human beings, does not drive by playgrounds and spray children with bullets. They do not rob, rape, or mug people.

How do we instill a basic respect and regard for the lives of human beings? This crime bill won't do it. Gun control won't do it. The truth is that government can't do it. Family, church, and society can. They used to.

For those who lack the moral base which might keep them from a life of crime, we must provide incentives. Incentives through penalties. Simply put, we cannot allow crime to pay. Criminal acts must have legal consequences. Punishment must be swift, certain, and stiff. Even severe.

We need more police officers on patrol. We need to assure the police that they will not risk their lives only to see criminals turned loose. We need more prisons to hold the violent criminals that these police are going to arrest, if we are to make stiffer crime sentences a reality rather than a joke. These measures are essential. Are they the solution? Not entirely. But they are necessary to restore some semblance of order in our country.

Let me say, Mr. President, that I would like to commend the managers of the crime bill. Theirs is no easy task. Every Senator has strong personal views on the issue, many potential amendments, and constituents demanding action. The managers are trying to minimize partisan bickering, maneuvering, and amendments which would jeopardize passage of the crime package. I applaud their efforts.

Last week, unfortunately, the crime debate took a detour. A gun control detour.

However strongly the proponents of gun control may feel about their cause, they are aware that gun control amendments will, at the least, slow the anti-crime bill down. It could stop it altogether in the Senate. It certainly stopped it in its tracks last week.

There is no reason that gun control must be debated on this bill. The principal sponsors of the assault rifle ban amendment are members of the majority party. Their party controls the agenda. Their party controls the White House. Their party controls whether a single-issue gun control bill can be brought before the Senate.

Mr. President, the Chairman and Ranking Member of the Judiciary Committee rightly sought to debate gun control on a separate track from the crime bill. These two Senators may be on different sides of the issue, but they agreed that the contentious, emotional tenor of the gun control debate was best kept separate from the anti-crime measures.

In the interest of passing a crime bill with strong, bipartisan provisions on prisons, police officers, and tougher

sentences, Republicans were even willing to handle habeas corpus on a different track rather than bog the Senate down in controversy—apparently to no avail. Gun control proponents seem to have decided that they just cannot wait. They have taken it upon themselves to jeopardize the entire crime bill.

Mr. President, with all due respect to the motivations of gun control proponents, if any members of the Crips and the Bloods gangs stumbled upon this gun control debate while they were flipping through channels on their stolen TVs—they'd HOWL with laughter!

These gang members who are doing the drive-by shootings, who are executing people for $20, or a sliver of urban territory, will not be impeded by this bill. This bill will merely add to the cost of conducting their sick business. It will drive up the cost of some guns, make them even more of a status symbol. Thugs will have to mug even more people so they can afford the guns whose price will be inflated by this bill. The newly contraband guns.

Let's be realistic, Mr. President: urban terrorists like the Crips and Bloods will not be deterred, nor impeded, by gun control. Criminal gangs, many of whom deal in illegal drugs, will have no difficulty getting access to illegal guns. The "deranged" individuals who were cited last week will accomplish their twisted objectives. Only law-abiding citizens will be denied the right to protect themselves by owning the gun of their choice.

We have heard a lot of heart-rending accounts of killings in the course of this debate. We all feel for the victims. The terror, pain, the trauma, is almost unimaginable. But no Senator, Mr. President, no Senator is unique in his or her outrage. Gun control proponents do not have a monopoly on compassion.

The truth is that the assault rifle ban passed because it was "PC." Clearly, "PC" does not stand for "political courage." "PC," as we have come to know it, stands for "politically correct." And in this instance, "politically convenient."

The assault rifle amendment offered by the Senator from California is interesting in the way it deals with the inconvenience of the Second Amendment. Proponents of an assault rifle ban have found that "assault rifle" is not definable as a category of weapons. Assault rifles cannot be banned as a class of weapons because they are not definable as a class. So this amendment bans brand names and model names.

What my colleagues should take note of, Mr. President, is "Appendix A" of the amendment. "Appendix A" lists the firearms that the Senate will graciously allow law-abiding Americans to own. As a sop to all those decent, taxpaying gun owners, the Amendment includes 13 pages listing the firearms that law-abiding citizens may own. A total of 650 weapons, we were told. How generous.

The Second Amendment of the United States Constitution has come down to this: 13 pages in a Senate amendment which few people have read that is supposed to appease those law-abiding Americans who have the audacity to feel they have a right to own guns. A right to defend themselves with firearms. A right to hunt. A right to target practice. A right to shoot beer cans, if they so choose. Beer cans—such an uncouth image that projects. Perhaps if more people used old Evian Water bottles for target practice, gun owners would get more respect around here.

And we are not talking about a privilege of citizenship here, or even a civil right; we are talking about constitutional right enshrined in one of mankind's most important documents by the Founders of this Nation. Yet with this amendment, we have reduced a constitutional right to a 13-page itemized shopping list. It certainly raises the question whether other portions of the Bill of Rights might be open to the same treatment.

Mr. President, assault rifles present sort of an "I-know-it-when-I-see-it" situation just like the pornography issue does. No one can define an assault rifle—but they know one when they see one. They are black and they have big banana clips. They are ugly and crude looking. Just by looking at them, you can tell they're not "nice" guns. Oh, and they are used a lot in the movies.

Speaking of the movies, Mr. President, a lot of people, including learned social scientists and Senators, think violence in the movies and television is a bigger problem than assault rifles. Using the Feinstein Amendment as a model, perhaps we can refine the First Amendment's free speech protections. After all, the Nation's Founders could not have conceived of movies or television when they wrote the First Amendment. They probably were not thinking about "The Terminator" or "Robocop 3." And there is no question they did not anticipate circa-1990s pornography when they penned the First Amendment of the Constitution.

So why don't we just ban pornography? Period. We can ban violence in the media. Period. We know it when we see it, but it is difficult to define, so we could just list the movies and shows to be banned. "The Taming of Rebecca" ought to be on that list; it's been implicated in several serial rape-murders in Delaware. But that task is cumbersome, so perhaps it would be easier to just list those TV shows and movies that we will generously allow Americans to view—such as "The Brady Bunch," "The Waltons," "The Sound of Music."

Speaking of music, we are all familiar with the controversy surrounding so-called "rap" music. Songs that advocate killing police officers, wholesale killing of citizens, riots. Perhaps we should carefully regulate what music citizens can produce and listen to—particularly young people.

Again using the Senator from California's amendment as a guide, we could ban music which advocates violent crime. We could ban music which applauds the murder of police officers or violence against women.

Using the assault rifle amendment rationale, we would seek to assure people they will have at least some music to listen to: Lawrence Welk, certainly. Anything by Frank Sinatra, except for "Guys and Dolls," which might promote street gangs. Classical music, of course; but not any of Verdi's operas: they're too violent.

Obviously, I am being facetious. But this is where we end up when we start reducing constitutional rights down to mere shopping lists. If we can whittle the right to bear arms down to a list of congressionally-approved guns, then surely we can whittle the right of free speech down to a list of congressionally-approved topics, and the right to freedom of worship down to a list of congressionally-approved religions.

The assault rifle amendment proposed by the Senator from California is a troubling constitutional precedent—one which fails to justify itself in terms of any realistic impact on deterring violent crime. For those reasons, I feel strongly compelled to oppose it.

Finally, Mr. President, we should maintain some perspective on just how much we can accomplish with any crime bill. Even with billions of dollars behind it, this crime package will not have any discernible effect on the crime rate any time soon.

When the President signs a crime bill at 1600 Pennsylvania Avenue Northwest, citizens at 1600 Pennsylvania Avenue Southeast may applaud, but they still will have to duck bullets for the foreseeable future. That is why it is imperative that a crime package pass as soon as possible so that prison construction can begin, police officers can be hired and trained, the criminal justice system can start using the tools we have provided, and citizens can have some hope that criminals will not have carte blanche in America.

We would greatly strengthen the U.S. Criminal Code with this bill, but our anticrime efforts must not end with this debate. As a nation, we must emphasize the "Moral Code" as well if we are to achieve and sustain any long-term victory in the war on crime. The U.S. Criminal Code tells what is illegal. A "Moral Code" should tell people what is right and wrong. The definitive answer to the crime problem cannot be found within the Senate. But we can get this country pointed in the right direction. And we can save some lives.•

• Mr. DOMENICI. Mr. President, November 11, 1993, marked the dedication

of the Vietnam Women's Memorial in Washington, DC. It was a special day of healing for all veterans, most especially for the women veterans who served the United States in one of our Nation's most painful wars.

The women veterans of Vietnam were subjected to the same pain and sacrifice as were the men. They skillfully performed their duties with dedication and commitment. Some of them came home physically or psychologically maimed, some did not return alive, and some just never came home. Each of these women played a special role for their fellow soldiers and their country, with far too little recognition of their achievements. The Vietnam Women's Memorial is a fitting tribute to these sisters, mothers, wives, and friends who selflessly gave so much to so many.

Glenna Goodacre, from Santa Fe, NM, is the sculptor of this magnificent tribute to our women veterans. She has gained worldwide respect and fame for her many works of art, and we New Mexicans are particularly proud that one of our own was chosen to create this masterpiece. Its strength and vitality, as well as its softness and compassion, could only be crafted by one who understands deeply the multifaceted personal and professional characteristics of our women veterans. Glenna Goodacre has created a sculpture of extraordinary visual beauty—one that conveys more than 1,000 words on a piece of paper.

Ms. Goodacre will go on to create many other works of art, but I believe this memorial may be considered one of her most outstanding and crowning achievements. Her hands and her heart created a physical structure representing a Nation's silent but heartfelt "thank you."

I am honored to thank this artist for her extraordinary talents and her magnificent contribution to this memorial. With her help, America will not forget the sacrifices of the women veterans who served their country so valiantly. In behalf of my fellow New Mexicans, and all our citizens who worked so hard to see this memorial become a reality, I extend our deep and sincere appreciation to Glenna Goodacre, a woman who captured a piece of a country's past for the future.•

## S. 1654, TECHNICAL CORRECTIONS

• Mr. BAUCUS. Mr. President, I rise today to express my strong support for S. 1654. This technical corrections legislation includes technical clarifications to the Northern Cheyenne Indian Water Rights Settlement Act of 1992 that are critical to implementation of the original act. The corrections reiterate that environmental compliance and mitigation are a responsibility of the United States. A typographical error is corrected so that moneys may be spent on environmental compliance immediately, while still requiring the entry of the compact in Montana's water rights adjudication system prior to the use of Federal money for actual construction.

The effect of this amendment is to ensure that $2,000,000 is placed into the Northern Cheyenne Tribal Development Fund. This would be as Congress intended and more importantly, as originally promised to the tribe. The State of Montana remains committed to providing its share of the compact implementation costs, $21,800,000, as indicated in the original act. A part of these costs are the costs associated with mine flooding and agricultural dewatering mitigation which are considered construction costs.

The Northern Cheyenne Settlement Act forged a new and constructive relationship between the State of Montana and the Northern Cheyenne people. We cannot allow this relationship to be jeopardized by simple technical errors. The negotiation of this compact and the resulting legislative ratification represent the tireless work of many committed people. It is imperative that Congress keep our promise to the Northern Cheyenne Nation and the State of Montana and allow the tribe to move forward with the beneficial use of their water.•

## SUPPORT OF THE CALIFORNIA ELECTRIC CAR INDUSTRY

• Mrs. BOXER. Mr. President, today I would like to take a few moments to speak on the emerging renaissance in automobile design and engineering and the rebirth in advanced technology manufacturing in my home State of California.

Under the aegis of the Clean Air Act, California has developed strong new standards to combat air pollution. These include regulations requiring 2 percent of each major automobile manufacturer's sales be zero-emission vehicles each year beginning in 1998, and increasing to 5 percent at the turn of the century and 10 percent beginning in 2003.

The most practical technology currently available to achieve zero emission is the electric vehicle. The electric vehicle has no tailpipe emissions and can reduce major ozone-creating pollution emissions by 97 percent when compared to gasoline-powered vehicles.

The California standards mean that in less than 5 years about 40,000 electric vehicles must be sold in California, increasing to 200,000 a little after the turn of the century. These rules are an opportunity, not a threat. The electric vehicle industry could top $10 billion annually by the year 2005, creating hundreds of thousands of jobs in the United States.

In a major policy paper on electric vehicle manufacturing in California, the Lewis Center for Regional Policy Studies at UCLA reported a few months ago that with the zero-emission standard in place, Los Angeles could capture more than 24,000 jobs in producing components and assembling electric vehicles. Southern California is the world's largest center of automobile design. We have numerous plastics molding firms, foundries, machine shops, tool and die manufacturers and electronic components producers already located in the region. About 450 businesses, mostly small shops, are already involved in some way with the early development of electric vehicle technology. General Motors' Impact electric car was designed in the region.

The State's numerous strengths in engineering, high-technology research and production, early and sophisticated demand, extensive entrepreneurial activity, world class universities, expert skill base and advanced aeronautics and electronics industries create the potential for the State to capture a major share of new electric vehicle jobs, potentially 70,000 jobs in less than 20 years. We are making real progress in California in converting our defense-related industries to advanced transportation. Under the catalyst of Calstart, the advanced transportation manufacturing consortium, for example, hands that once expertly designed a cooling system for an infrared missile sensor now design a thermoelectric heating/cooling seat for electric vehicles and a company that manufactured military tank systems now turn out hybrid-electric vehicle power systems.

California could be the single largest market for electric vehicles in the world well into the 21st century. The California Council on Science and Technology estimates that the total worldwide demand for electric vehicles will reach nearly 2 million automobiles by 2007, yielding an industry with annual sales exceeding $25 billion. By the year 2005, hundreds of thousands of Americans will be employed in the electric vehicle industry across the country.

Early next year, the Nation's first electric-powered school buses will roll out in Santa Barbara, CA. These two 67-passenger school buses are being retrofitted in California. If only 25 percent of the Nation's new school buses were electric, we could generate $455 million in revenues, with retrofit sales totaling another $520 million. As many as 26,000 jobs could be created in this industry alone.

The driving force behind this industry is the California Air Resources Board's rules requiring manufacturers to offer zero emission vehicles by 1998. The Environmental Protection Agency has allowed California to move forward with these rules as its response to the Clean Air Act requirements.

Now, a dozen other States in the Northeast are considering the California rules as a way to meet their requirements under the act. Representatives of these States recently met as the Ozone Transport Commission to draft a formal petition to the EPA to ask it to enforce the California standard in the East. The adoption of these standards by California and the Northeast would provide a tremendous boost to the electric car industry—a market for more than 79,000 electric vehicles in 1998—and a chance for many Americans to breathe cleaner air.

U.S. automakers, however, are concerned that they will not be able to produce an electric vehicle that has a battery "with acceptable cost, range and life to power it." They are suggesting that these States drop efforts to adopt a zero emission requirement in exchange for the automakers accelerating the development of low-emission vehicles, such as natural gas vehicles. But they want 10 years to pursue that goal through the President's clean car initiative. This program, designed to harness the Federal Government's research and development capabilities with the automakers own programs, is a major boost in our efforts to develop the technology necessary to mass produce clean cars. But it should not be an opportunity to put our current progress on hold.

California already is forging ahead in developing the electric car. New developments are occurring rapidly. For example, we are on the verge of introducing a recharging unit that will fuel the vehicle within a matter of minutes instead of hours.

While it is true that we have not yet had the major technological breakthrough for a lighter, more powerful, advanced battery, experiments on a number of technologies, including the fuel cell, are promising. Electric vehicles are being produced and marketed today on a small scale using conventional batteries. Several small companies in California already build and market electric vehicles using the lead acid battery. Charging between $10,000 and $35,000 per vehicle today, even without mass production.

These are not your long distance touring cars; that's true. But what we need are commuter cars and fleet vehicles. Most people do not drive over 100 miles to work. There is no reason why anyone should be driving over 60 miles to work in our major smog-shrouded cities without having access to a charging station at home or at work.

Is this the best state we could be in? No, but Henry Ford did not wait for the development of the electronic ignition before he turned out the hand-cranked Model T.

Consumers will buy electric cars if we provide the right incentives. GM's own survey last year of 1,000 potential new car buyers in San Francisco and Los Angeles found that the number of people who would definitely or probably purchase an electric vehicle increased from 17 to 68 percent if provided a mix of price and ownership incentives totaling $7,000. These incentives include a federal income tax credit, reduced electric rates for home charging, or a free battery change after 30,000 miles.

The Internal Revenue Service is currently writing the rules to implement a Federal tax credit of up to 10 percent of the cost of an electric vehicle, up to a maximum of $4,000. Already Southern California Edison has proposed a comprehensive plan for promoting electric vehicle ownership, including: installation of recharging equipment in homes within 72 hours of an electric vehicle purchase, discount rates for charging electric vehicles overnight, up to $1,500 in incentives to buy or lease electric vehicles and prototype recharging stations in public and employee parking lots and other sites. The utility has requested a $190 million rate hike over 6 years to pay for the program, amounting to, at most, pennies a month on the average electric bill. The alternative vehicle consortium Calstart has installed about 90 recharging stations in the State and expects to achieve its goal of 143 by early 1994.

In no way do I suggest that we not simultaneously pursue production of low-emission vehicles, such as natural gas and the hybrid gasoline-electric vehicles, as well as incentives to junk gas-guzzlers. But neither should we ignore the opportunity to save nearly 1 million barrels of oil per day by replacing only 22 percent of the currently registered gasoline-powered vehicles with electric vehicles. We should not remove the catalyst that is propelling us into a new age of the automobile.

Recently, Thomas C. Jorling, Commissioner of New York State's Department of Environmental Conservation, called California's zero-emission requirement the air quality program's real genius. He said, "it significantly contributes to achievement and maintenance of the health standards. It sets forth real market share incentives and a timetable that permits technological development in a manner designed to stimulate the production of vehicles that are essential not only to the American future in the 21st century, but to the global future."

At long last we are actually cleaning up the atmosphere. Earlier this month the EPA announced major progress in the reduction of six major pollutants over the past 10 years, including a 21-percent reduction in smog and 34-percent drop in carbon monoxide. Despite this continuing progress in air quality nationwide, almost 45 million people still live in counties exceeding the smog standard, more than 14 million live in counties exceeding the carbon monoxide standard, and almost 26 million reside in areas violating the particulate standard. In my own State, nine regions are still listed as failing to achieve standards for ozone; three are in serious violation. The Los Angeles basin is still a serious carbon monoxide nonattainment area. But the most compelling statistic of all is this: Children in the Los Angeles air basin suffer a 15-percent reduction in lung function by age 12 because of exposure to smog.

But we cannot give in to doubt and fear. I agree with Transportation Secretary Pena when he said in California last May that the biggest obstacle to the success of electric cars is lack of faith. We have before us the technological equivalent of the race to the Moon. This time it is the race to build the Clean Car. Make no mistake. This is a race because the winner has a global market to exploit. The Japanese and the Germans are not shirking from the task. You only have to have seen the Tokyo Auto Show last month to see the latest electric vehicle on view.

I urge California Gov. Pete Wilson not to relax the California zero-emission rules. We have gone too far in our efforts to clean up the environment to delay now. At the same time, I urge Detroit to join hands with California and move forward to build the clean car of the future. We need your help to merge the high-tech component skills in my State with the mass production know-how of the traditional automaking States. We have a wonderful opportunity here to create a new mission to bring life to America's manufacturing base and provide cleaner air for all Americans.•

## REVISING THE WAR POWERS RESOLUTION

• Mr. BIDEN. Mr. President, last month, the Senate engaged in an important debate about the use of American military power in the post-cold-war era. But the debate was not only about the ramification of United States military intervention in Bosnia, Haiti, and Somalia. It was about much more—the critical question of who decides to send forces into harm's way.

This is not merely a question of policy—about which branch of Government is the wiser judge of the use of American military power. It is a fundamental question about constitutional authority and constitutional duty—a question of how this Government proceeds in exercising its power in the most solemn decision that a nation can make: to send women and men to fight and die for their country.

Decades ago, a noted scholar, Edwin Corwin, characterized constitutional provisions regarding foreign policy as an "invitation to struggle." Professor Corwin's maxim accurately describes over 200 years of constitutional history—two centuries of tension between

the executive and legislative branches regarding the war power.

But over the past four decades what was intended as a healthy struggle has become excessively divisive and chronically debilitating. We have experienced four decades of cold war during which vicious domestic battles have degenerated into what has amounted to trench warfare between the branches. The primary cause, in my view, is that Presidents have pushed the limits of executive prerogative. Their rationale has been the supposed burden of Presidential responsibility imposed by the stresses and dangers of the cold war.

The era began in 1950, when President Truman deployed forces to the defense of South Korea without congressional authorization. With elaborate legal argument, Truman asserted an inherent Presidential authority to act unilaterally to protect the "broad interests of American foreign policy." A nearly lone voice of concern, Senate minority leader Robert Taft—known as "Mr. Republican"—declared that the President had "usurped authority, in violation of the laws and the Constitution." But Taft's pronouncements availed him little, a fate that would often befall similar congressional attempts to restrain executive aggrandizement.

The dissenters were overwhelmed by the proponents of a thesis: the thesis that in the nuclear age—when the fate of the planet itself appeared to rest with two men thousands of miles apart, one in the White House and the other in the Kremlin—Congress had little choice, or so it was claimed, but to cede tremendous authority to the executive branch.

By the beginning of the 1970's, that thesis had become doctrine. In 1970, when President Nixon sent United States forces into Cambodia with neither congressional authorization nor even consultation, his accompanying assertions of autonomous Presidential power were so sweeping and so extreme that the Senate began a search—a search led by Republican Jacob Javits and strongly supported by Senator John Stennis—for some means of rectifying what was now perceived as a dangerous constitutional imbalance.

The result was the enactment, in 1973, of the War Powers Resolution—over a Presidential veto.

Today, 20 years later, few would dispute that the War Powers Resolution has failed to fulfill its intent—and has been, to state it simply, ineffective. In its two decades, a premise has gained wide acceptance that the War Powers Resolution is fatally flawed. Indeed, there are flaws in the resolution, but they need not have been fatal. For that law was designed—by legislators who were in fact statesmen of a markedly conservative stripe—to embody constitutional principles and to set forth practical procedures.

It is commonly said that every President has disputed the constitutionality of the War Powers Act. But that is not true. President Ford took no issue with the act while in office. And President Carter explicitly vowed to comply with its provisions, declaring that he would neither endorse nor challenge its constitutionality. Moreover, the Carter Justice Department conducted a detailed analysis of the resolution and declared, quite explicitly, that its most crucial mechanism—the timetable for congressional authorization of a use of force abroad—is fully and unambiguously constitutional.

Unfortunately, under the Ford and Carter administrations no body of practice under the resolution developed, because the only two military actions of that period—the "Mayaguez" incident under Ford and the "Desert One" incident under Carter—were over almost before they began. Then came Presidents Reagan and Bush, who dealt with the resolution pragmatically while declaring their blanket opposition to its provisions.

Perhaps now, however, we have reached a ripe moment for reconsideration of this issue. It took the arrival of a Democrat in the White House, but our friends on the other side of the aisle—who were for so many years attached to the monarchist concept of the war power—now seem prepared to take a new look at the Constitution and to remind themselves that Mr. Republican—Robert Taft—was right:

There is a fundamental constitutional role for Congress in the decision to engage this Nation in warfare. Our task today, if we will accept and seek to achieve it, is to overcome the flaws of existing law—ironically, a law designed to improve executive legislative branch comity on the war power that has instead contributed to frequent squabbles about the minutiae of the law's provisions.

No case better demonstrates the kind of problems we must overcome than that which occurred in 1987. For much of that year, Congress was involved in a seemingly endless debate about the application of the War Powers Resolution to the situation in the Persian Gulf. The dispute focused not on the policy of reflagging the Kuwaiti tankers, but about the procedures of the War Powers Resolution. These questions diverted Congress and the President from joining the debate about the central issue—about the ramifications of the reflagging itself—a high-risk undertaking not at all self-evident in its justification. Instead, the Congress and President dickered over numerous legalisms:

Did the circumstances fulfill the criterion of "hostilities or * * * imminent involvement in hostilities"?

If so, when did the 60-day time clock for congressional authorization begin to run?

Could Congress trigger the time clock in the absence of a Presidential report?

And so on.

In 1988, determining that a review of the War Powers Resolution was in order, the Foreign Relations Committee established a special subcommittee to assume the task. As chairman of the subcommittee, I conducted an exhaustive series of hearings, the most extensive hearings held in recent times on this subject. Over the course of 2 months, the subcommittee heard from many distinguished witnesses—former President Ford, former Secretaries of State and Defense, former Joint Chiefs of Staff, former Members of Congress who drafted the law, and many constitutional scholars.

At the end of that process, I produced a lengthy law review article describing how the War Powers Resolution might be thoroughly rewritten to overcome its actual and perceived liabilities. I envisaged its replacement by a new act entitled the "Use of Force Act"—which would aim to achieve, at long last, the goal of its predecessor: to restore the balance of power between the executive and legislative branches regarding the war power. Unfortunately, the election of another Republican President who persisted in seeking to expand Executive power assured that no useful progress could be made on such legislation.

Indeed, my worst fears about President Bush's "monarchist" views were confirmed during the gulf crisis, when the President petulantly declared that he didn't need permission "from some old goat in the Congress to kick Saddam Hussein out of Kuwait." Although Mr. Bush eventually sought congressional support in the gulf, he did do reluctantly, and continued to assert that he sought only support, refusing to concede that congressional authorization was a legal necessity.

That brings us to the present, where numerous foreign crises—and legitimate questions about U.S. involvement in multilateral actions—have combined to encourage our Republican colleagues to rediscover that Congress has a major role in the exercise of the war power. In recent weeks, we have witnessed one member after another achieving the equivalent of a conversion on the road to Damascus. Some may question their motivations. But for my part, I welcome their recognition—albeit belated—that Congress must have a voice in the decisions to deploy American forces into hostile situations.

But it is insufficient to say Congress must have a voice. The constitutional command is clear—only Congress can authorize the use of American military power abroad. The President, to be sure, is the Commander in Chief, and has the sole power to direct American military forces in a combat once that action has been authorized by Congress. But until that authority is granted, the President has no inherent

power to send forces to war—except in certain situations, such as to repel sudden attacks or to protect the safety and security of Americans abroad.

These precepts—and these specific exceptions—are embodied in the "Use of Force Act," a legislative proposal that I have previously drafted that would revise the War Powers Resolution. I am now reviewing that draft, and hope that next year the Foreign Relations Committee will consider this and other proposals for reform.

Such a review has been requested by the majority leader, who on October 22 announced that the Foreign Relations Committee, the Armed Services Committee, and the Intelligence Committee would begin a comprehensive review of the use of force in the post-cold-war period. This review will encompass both the policy choices facing the United States, as well as the mechanisms for making decisions about the use of force.

I want to underscore for my friends on the other side of the aisle that this must not be an effort merely of Senate Democrats. We seek a dialog—with our Republican colleagues, with our colleagues in the other body, and with the President. We must not enact legislation of such import with a partisan vote or over a veto.

Our goal is a framework that will be used—not criticized, circumvented, and abused. To accomplish that goal will require that we persuade this President—against all the advice he will get from the traditionalist, cold war, monarchist lawyers—that getting Congress on board at the outset of any military involvement is not only the sound constitutional approach, but also the soundest approach politically and for an effective American foreign policy.

I have no illusions that enacting such legislation will be an easy task. The experience of the War Powers Resolution gives witness to the difficulty of finding the proper balance between the executive and legislative branches on war powers. Of course, a strong measure of tension between the Executive and Congress will always be present in a Government designed, as ours was, to avoid tyranny through a separation of powers.

But it is clear to me that we must try to prevent healthy tension from degenerating into chronic disease. The current institutional stalemate is unacceptable. As matters now stand, Congress is denied its proper role in sharing in the decision to commit American troops, and the President is deprived of the consensus to help carry this policy through.

Only by establishing an effective war powers mechanism can we ensure that both of these goals are met. More important, we will guarantee that the will of the American people will stand behind the commitment of American forces. To fulfill that goal is our solemn duty, and I for one will continue to pursue it.•

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

### UNANIMOUS CONSENT ON TREATIES

Mr. FORD. I ask unanimous consent that the Senate proceed to executive session to consider the following treaties:

Calendar 10: Convention on the Marking of Plastic Explosives for Purposes of Detection;

Calendar 11: Convention on the Limitation Period in the International Sale of Goods, with Protocol;

Calendar 12: Income Tax Convention with the Russian Federation;

Calendar 13: Protocol amending the 1984 Income Tax Convention with Barbados;

Calendar 14: Tax Convention with the Kingdom of the Netherlands; and Protocol (Treaty Doc. 103–19) thereto;

Calendar 15: Income Tax Convention with Mexico, with Protocol;

Calendar 17: Income Tax Convention with the Czech Republic;

Calendar 18: Income Tax Convention with the Slovak Republic;

Calendar 19: Protocol to the International Convention for the Conservation of Atlantic Tuna, and

Calendar 20: Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification, that the committee recommended declarations, reservations, or understandings on Executive Calendars 10, 11, 13, and 18 be considered as having been adopted; that, with respect to Executive Calendar 15, the Committee recommended understanding be considered as having been adopted, the Committee recommended reservation be withdrawn and Executive Amendment 1228, introduced by Senator SARBANES, in the nature of an understanding be considered as having been adopted; that no additional amendments, conditions, declarations, provisos, understandings or reservations be in order; that any statements appear, as if read, in the RECORD, and that the Senate vote, with one vote to count as 10, on the resolutions of ratification without intervening action or debate; that after the vote the motion to reconsider the vote be tabled; that the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Executive Amendment No. 1228 was agreed to, as follows:

"In lieu of the reservation proposed to be inserted by the Committee, insert the following:

(a) Understanding: That the phrase "both Contracting States shall apply that lower rate" in paragraph 8(b) of the proposed protocol is understood to mean that both Contracting States agree to promptly amend the Convention to incorporate that lower rate; and".

The treaties are as follows:

Convention on the Marking of Plastic Explosives for the Purpose of Detection.

Convention on the Limitation Period in the International Sale of Goods, with Protocol.

Income Tax Convention with the Russian Federation.

Protocol Amending the 1984 Income Tax Convention with Barbados.

Tax Convention with the Kingdom of the Netherlands; and Protocol, (Treaty Doc. 103–19) thereto.

Income Tax Convention with Mexico, with Protocol.

Income Tax Convention with the Czech Republic.

Income Tax Convention with the Slovak Republic.

Protocol to the International Convention for the Conservation of Atlantic Tuna.

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

Mr. MITCHELL. Mr. President, on behalf of Senator DORGAN, I would like to make a statement and ask the distinguished Chairman of the Foreign Relations Committee a question regarding the pending tax treaties.

For decades, U.S. tax officials have wrestled with the problem of how to divide the total income of a firm doing business in many different jurisdictions. During this period, the federal taxing authorities have tried to deal with this problem on what is called a "separate accounting" basis, adjusting each transaction between related businesses to approximate what the transactions would be if the related businesses were dealing with each other at "arm's length." Unfortunately, this method provides substantial opportunities to avoid U.S. taxes.

A similar situation arises domestically when a company does business in several States within the United States. The State taxing authorities successfully have used a simple formula approach to allocate a multistate corporation's overall income among the States. The Supreme Court repeatedly has upheld the formula method as reasonable and fair.

Now, the pending treaties include a provision, common to most of our bilateral income tax treaties, that deals with transactions between "related" corporations.

Mr. President, my question to the distinguished chairman of the Foreign Relations Committee is: Do any of the pending United States tax treaties

with the Netherlands, Mexico, Russia, Czech Republic, or Slovak Republic, prevent the treaty countries from using a formula method to apportion income between related entities?

Mr. PELL. Mr. President, the treaties do not prevent the appropriate use of a formula method by the treaty countries to apportion overall income among associated enterprises.

In fact, our Committee previously addressed a similar matter in its Executive Report No. 96-5 accompanying the Third Protocol to the 1975 Tax Convention with the United Kingdom. In connection with that treaty, we stated that both countries may apply apportionment formulas, including formulas that take into account attributes of related entities, to calculate the arm's length value of a transaction between related entities. We also made clear that apportionment formulas also may be used to apportion income of related entities to the extent that it is established that they are not dealing on an arm's length basis.

Mr. FORD. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division is requested. All those in favor of the resolutions of ratification stand and be counted. (After a pause.) All those opposed to the resolutions of ratification stand and be counted.

Two-thirds of those present having voted in the affirmative, the resolutions of ratification are agreed to.

So it was—

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention on the Marking of Plastic Explosives for the Purpose of Detection, with Technical Annex, done at Montreal on March 1, 1991, subject to the following:

Declaration: The Senate's advice and consent is subject to the following declaration:

Pursuant to paragraph 2 of Article XIII of the Convention, the Government of the United States of America declares that it is a producer * * *

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Multilateral United Nations Convention on the Limitation Period in the International Sale of Goods, done at New York on June 14, 1974, together with the 1980 Protocol Amending that Convention, done at Vienna on April 11, 1980, subject to the following:

Declaration: The Senate's advice and consent is subject to the following declaration:

Pursuant to Article XII, the United States will not be bound by Article I of the Protocol.

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Russian Federation for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Texas on Income and Capital, together with a related Protocol, signed at Washington on June 17, 1992 (Treaty Doc. 102-39).

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed on December 31, 1984, which Protocol was signed at Washington on December 18, 1991 (Treaty Doc. 102-41), subject to the following reservation:

That the words "voting power or value" in Article III, paragraph 2 shall be construed to mean "voting power and value" for purposes of imposing the tax under section 531 of the Internal Revenue Code of 1986, as amended.

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the Convention), signed at Washington on December 18, 1992 (Treaty Doc. 103-6); and the Protocol Amending the Convention signed at Washington on October 13, 1993 (Treaty Doc. 103-19).

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at Washington on September 18, 1992 (Treaty Doc. 103-7), subject to the following:

(a) Understanding: That the phrase "both Contracting States shall apply that lower rate" in paragraph 8(b) of the proposed protocol is understood to mean that both Contracting States agree to promptly amend the Convention to incorporate that lower rate; and

(b) Understanding: That, while Mexico imposes no excise tax on insurance premiums paid to foreign insurers and has no immediate plans to do so, should Mexico enact such a tax in the future, Mexico will waive such tax on insurance premiums paid to insurers resident in the United States.

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Czech Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed in Prague on September 16, 1993 (Treaty Doc. 103-17).

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Slovak Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed in Bratislava on October 8, 1993 (Treaty Doc. 103-18), subject to the following understanding:

That the words "50 percent of property" in Article 13, paragraph 2 shall be construed to mean "50 percent of real property" for purposes of determining whether shares of stock of a company constitute "real property situated in the other Contracting State" under the treaty.

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Protocol Adopted June 5, 1992, by the Conference of Plenipotentiaries of the Contracting Parties to the International Convention for the Conservation of Atlantic Tunas (ICCAT), Signed by the United States on October 22, 1992, to Amend Paragraph 2 of Article X of ICCAT.

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at Copenhagen, November 23-25, 1992, by the Fourth Meeting of the Parties to the Montreal Protocol.

Mr. FORD. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of the following nominations and that the Senate proceed to their immediate consideration:

Einar V. Dyhrkopp, to be a Governor of the United States Postal Service;

Marian C. Bennett, to the inspector General, United States Information Agency;

Charles C. Masten, to be Inspector General, Department of Labor, and;

George W. Haley, to be a Commissioner of the Postal Rate Commission.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

Einar V. Dyhrkopp, to be a Governor of the United States Postal Service;

Marian C. Bennett, to the inspector General, United States Information Agency;

Charles C. Masten, to be Inspector General, Department of Labor, and;

George W. Haley, to be a Commissioner of the Postal Rate Commission.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported by the Committee on Commerce, Science, and Transportation:

Linda Hall Daschle, to be Deputy Administrator of the Federal Aviation Administration.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as read, that upon confirmation, the motion to reconsider be laid upon the table that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was confirmed.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nomination reported today by the Committee on Labor and Human Resources:

Jeanne Hurley Simon, to be a member of the National Commission on Libraries and Information Science.

I further ask unanimous consent that the nominee be confirmed, that any

statements appear in the RECORD as if read, that the motions to be reconsidered by laid upon the table, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed.

Mr. FORD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations and that the Senate proceed to their immediate consideration:

Nelson F. Sievering, Jr., to be the Representative of the United States of America to the International Atomic Energy Agency; and

John B. Ritch III, to be the Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, en bloc.

## RETURN OF CERTAIN NOMINATIONS TO THE PRESIDENT

Mr. FORD. Mr. President, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of rule 31, paragraph 6, with the following exception:

Institute of American Indian and Alaskan Native Culture: Marion G. Chambers.

Department of Defense: Steven Muller, S. William Pattis, Richard F. Stolz, John P. Roche, and Morton H. Halperin.

Defense Base Closure and Realignment Commission: Thomas J. Downey.

Department of Commerce: Stephen T. Hart.

Corporation for Public Broadcasting: David P. Prosperi.

U.S./Canada International Joint Commission: Robert Goodwin.

Legal Services Corporation: Norman D. Shumway.

Department of Education: Ramon C. Cortines.

Administrative Conference of United States: Brian C. Griffin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations:

Calendar 518. Sue E. Eckert, to be an Assistant Secretary of Commerce;

Calendar 519. Martin A. Kamarck, to be First Vice President of the Export-Import Bank of the United States;

Calendar 520. Dwight P. Robinson, to be President, Governmental National Mortgage Association;

Calendar 522. Robert G. Houdek, to be Ambassador Extraordinary and Plenipotentiary of the USA to Eritrea;

Calendar 523. Mark G. Hambley, to be Ambassador Extraordinary and Plenipotentiary of the USA to the Republic of Lebanon;

Calendar 524. Leslie M. Alexander, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius, and to the Federal and Islamic Republic of Comoros;

Calendar 525. David P. Rawson, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda;

Calendar 526. Edward P. Djerejian, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel;

Calendar 527. Victor L. Tomseth, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic;

Calendar 528. Theodore E. Russell, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic;

Calendar 530. Nicholas A. Rey, to be Ambassador to the Republic of Poland;

Calendar 532. Edward E. Elson, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark;

Calendar 533. Marc Charles Ginsberg, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco;

Calendar 537. Martin L. Cheshes, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti;

Calendar 543. John F. Hicks, Sr., to be an Asst. Administrator of the Agency for International Development;

Calendar 551. Martha C. Daughtrey, to be U.S. Circuit Judge;

Calendar 552. Thomas M. Shanahan, to be U.S. District Judge;

Calendar 553. David G. Trager, to be U.S. District Judge;

Calendar 554. Lawrence L. Piersol, to be U.S. District Judge;

Calendar 555. Raymond A. Jackson, to be U.S. District Judge;

Calendar 556. Joanna Seybert, to be U.S. District Judge;

Calendar 557. David W. Hagen, to be U.S. District Judge;

Calendar 558. Claudia Wilken, to be U.S. District Judge;

Calendar 559. Gary L. Lancaster, to be U.S. District Judge;

Calendar 560. Donetta W. Ambrose, to be U.S. District Judge;

Calendar 561. Wilkie D. Ferguson, Jr., to be U.S. District Judge;

Calendar 562. Charles A. Shaw, to be U.S. District Judge;

Calendar 563. Harry F. Barnes, to be U.S. District Judge;

Calendar 565. Reginald C. Lindsay, to be U.S. District Judge;

Calendar 566. Patti B. Saris, to be U.S. District Judge;

Calendar 567. Allen G. Schwartz, to be U.S. District Judge;

Calendar 568. Richard G. Stearns, to be U.S. District Judge;

Calendar 569. Henry Lee Adams, Jr., to be U.S. District Judge;

Calendar 570. Susan C. Bucklew, to be U.S. District Judge.

Nominations placed on the Secretary's Desk in the Foreign Service on the list beginning with Curtis Kamman and on the list beginning with Bruno Cornelio.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF COMMERCE

Sue E. Eckert, of Rhode Island, to be an Assistant Secretary of Commerce.

EXPORT-IMPORT BANK OF THE UNITED STATES

Martin A. Kamarck, of Massachusetts, to be First Vice President of the Export-Import Bank of the United States for a term of four years expiring January 20, 1997.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Dwight P. Robinson, of Michigan, to be President, Government National Mortgage Association, vice Raoul Lord Carroll.

DEPARTMENT OF STATE

Robert Gordon Houdek, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Eritrea.

Mark Gregory Hambley, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Leslie M. Alexander, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

David P. Rawson, of Michigan, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Edward P. Djerejian, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Victor L. Tomseth, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

Theodore E. Russell, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

Robert S. Gelbard, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for International Narcotics Matters.

Nicholas Andrew Rey, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.

Edward Elliott Elson, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Marc Charles Ginsberg, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Martin L. Cheshes, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

John F. Hicks, Sr., of North Carolina, to be an Assistant Administrator of the Agency for International Development.

THE JUDICIARY

Martha Craig Daughtrey, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Thomas M. Shanahan, of Nebraska, to be United States District Judge of the District of Nebraska.

David G. Trager, of New York, to be United States District Judge for the Eastern District of New York.

Lawrence L. Piersol, of South Dakota, to be United States District Judge for the District of South Dakota.

Raymond A. Jackson, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Joanna Seybert, of New York, to be United States District Judge for the Eastern District of New York.

David W. Hagen, of Nevada, to be United States District Judge for the District of Nevada.

Claudia Wilken, of California, to be United States District Judge for the Northern District of California.

Gary L. Lancaster, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Donetta W. Ambrose, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Wilkie D. Ferguson, Jr., of Florida, to be United States District Judge for the Southern District of Florida.

Charles A. Shaw, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Harry F. Barnes, of Arkansas, to be United States District Judge for the Western District of Arkansas.

Reginald C. Lindsay, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Patti B. Saris, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Allen G. Schwartz, of New York, to be United States District Judge for the Southern District of New York.

Richard G. Stearns, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Henry Lee Adams, Jr., of Florida, to be United States District Judge for the Middle District of Florida.

Susan C. Bucklew, of Florida, to be United States District Judge for the Middle District of Florida.

## STATEMENT ON THE NOMINATION OF JUDGE MARTHA CRAIG DAUGHTREY

Mr. DOLE. Mr. President, the Senate is now patting itself on the back for passing a $22 billion anticrime bill. If all goes well, this bill should take a bite out of crime by putting more police on the streets and building more prison space to keep hardened criminals behind bars where they belong.

But, Mr. President, our efforts to pass tough anticrime legislation these past 2 weeks will be wasted, if President Clinton doesn't back them up by appointing judges who are willing to enforce our criminal laws to their full extent and not find excuses to let vicious criminals escape punishment.

One judicial nominee who appears not to fit the "law-and-order" bill is Judge Martha Craig Daughtrey, who has been nominated to fill a vacancy on the sixth circuit court of appeals. The Judiciary Committee has reported Judge Daughtrey's nomination by a divided vote of 12 to 5.

Now, I will not stand in the way of the confirmation of Judge Daughtrey, but as I have indicated before on this floor, her record as a member of the Tennessee supreme court has caused me considerable concern.

It is my understanding that during her years on the Tennessee bench, Judge Daughtrey has not once voted to affirm a capital sentence on direct appeal. In fact, she joined a dissent from a landmark ruling declaring that the Tennessee statute imposing the death penalty for felony-murder was constitutional.

The dissent offered this textbook example of judicial activism: "Implicit in death penalty jurisprudence is the recognition that the standards of decency are not static but evolving, that society is not stale but maturing, and that the level of community morality will continue to rise until the reasoned moral response of the people of Tennessee will be * * * that the death penalty is cruel and unusual punishment."

Apparently, Judge Daughtrey believes that once the people of Tennessee grow up, they will come to see the error of their ways and oppose the death penalty.

Mr. President, I wish Judge Daughtrey the very best as she assumes her new responsibilities on the Federal bench. But it is my hope she will quickly learn that her job is not to impose her own policy judgments or value system, but rather to interpret the law in accordance with the intent of the law's drafters.

If we are to win the war against crime and criminals, we will need Federal judges who view law-and-order as something more than just a slogan.

Mr. SASSER. Mr. President, I rise today to commend the Senate for its confirmation of the nomination of Martha Craig Daughtrey to be United States Circuit Judge for the Sixth Circuit Court of Appeals.

Judge Daughtrey's list of accomplishments is long and impressive. After her graduation from Vanderbilt University and Vanderbilt Law School, she became a pioneer in the law in the State of Tennessee. She was the first woman to be a state prosecutor and the first woman to be a federal prosecutor in Tennessee. She was the first woman to be a full-time professor at Vanderbilt Law School. She was also the first woman elected to state-wide office in Tennessee—the Tennessee Court of Criminal Appeals.

After serving as an assistant United States Attorney in Nashville, she was assistant District Attorney in Davidson County from 1969 to 1972.

She was appointed an Associate Judge of the Tennessee Court of Criminal Appeals in 1975 and served there until her appointment as an Associate Justice of the Tennessee Supreme Court in 1990.

In all of these posts, she has distinguished herself in handling a wide variety of complex legal issues. She has extensive experience in criminal, civil, and regulatory law.

Judge Daughtrey has also taught extensively at Vanderbilt Law School in the areas of criminal constitutional law, federal and state constitutional law, and women's rights. In 1991, she was Distinguished Jurist in Residence at the Indiana University School of Law.

She has been for many years a faculty member of the Appellate Judges' Seminar at New York University. As my colleagues may know, such a position is highly respected in the legal profession.

She has also been active in the legal community, serving on the boards of numerous legal organizations. She is past President of both the National Association of Women Judges and the Middle Tennessee Lawyers' Association for Women.

Mr. President, I had the privilege of introducing Judge Daughtrey at her nomination hearing, and I listened to her testimony. I was extremely impressed with her knowledge of the law and her obvious regard for the special role of the judiciary. I left that hearing with even greater confidence that she would serve with great distinction on the federal bench.

I congratulate Judge Daughtrey, and I commend the Senate for acting quickly to approve this important nomination.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## EARLY-OUT AUTHORITY FOR FOREST SERVICE EMPLOYEES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1761, relating to early-out authority for

Forest Service employees, introduced earlier today by Senators MURRAY and HATFIELD, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table, and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1761) was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

## COMPLIANCE OF LIBYA WITH U.N. SECURITY COUNCIL RESOLUTIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 165, a resolution regarding the compliance of Libya with U.N. Security Council resolutions; that the resolution be agreed to, the motion to reconsider laid on the table, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 165) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

(The text of the resolution will be printed in a future edition of the RECORD.)

## INVESTMENT ADVISER OVERSIGHT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 277, S. 423, the Investment Adviser Oversight Act of 1993.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, (S. 423) to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Investment Adviser Oversight Act of 1993".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter in this Act referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

**SEC. 3. REGISTERED INVESTMENT ADVISER FEES.**

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

**"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.**

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected as specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

| "Assets under management | Fee due: |
|---|---|
| Less than $10,000,000 | $300 |
| $10,000,000 or more, but less than $25,000,000 | $500 |
| $25,000,000 or more, but less than $50,000,000 | $1,000 |
| $50,000,000 or more, but less than $100,000,000 | $2,500 |
| $100,000,000 or more, but less than $250,000,000 | $4,000 |
| $250,000,000 or more, but less than $500,000,000 | $5,000 |
| $500,000,000 or more | $7,000. |

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section (and the amendment made by this section) shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

**SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.**

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

**SEC. 5. BOND REQUIREMENT.**

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.**[".]**

*"(4) The Commission shall not require investment advisers to obtain a fidelity bond if—*

*"(A) fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment advisers are located; or*

*"(B) the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment advisers' competitive positions.".*

Mr. FORD. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc; that

the bill, as amended, be deemed read a third time, passed, and the motion to reconsider laid upon the table; and that any statements on this measure appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 423), as amended, was deemed read a third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. DODD. Mr. President, I rise in support of S. 423, the Investment Adviser Oversight Act of 1993.

This bill, which I introduced earlier this year with Chairman RIEGLE and colleagues on the Banking Committee, addresses the critical shortage of Securities and Exchange Commission examiners for investment advisers. Investment advisers are professionals, such as financial planners, who give advise about securities. They are required to register with the SEC and must comply with SEC rules requiring them to disclose certain information to their clients, to keep certain books and records, and to make their records available to SEC examiners. But the inspection program at the SEC is woefully inadequate. The SEC inspects investment advisers, on average, only once every 28 years.

The problem here is simple. Over the past decade, the industry has grown dramatically but the SEC staff has not.

As the financial choices available to investors have become more complex over the past decade, many middle-class Americans have come to rely to a much greater extent on financial planners to assist them in organizing their financial lives.

Many of these investors are unsophisticated, and vulnerable to con artists and fraudulent financial planners, moreover, even a savvy and cautious investor may rely on the fact that a financial adviser is registered with the SEC, and may not realize how little that registration means when the adviser may have last been examined by the SEC decades ago, or perhaps never at all.

Because of the growing public demand for financial advice, the number of advisers registered with the SEC has exploded from 5,100 in 1981 to more than 19,000 today, and the assets under their management have soared during this period from $450 to $10 trillion.

However, the SEC's examiner staff has not kept up with the industry's growth. The SEC had 26 examiners in 1981, and has 48 examiners today. This means the SEC can inspect advisers, on average, only once every 28 years.

Without enough cops on the beat, investor confidence is needlessly at risk, and capital formation suffers.

This bill addresses this problem through increases in the fees paid by investment advisers. Advisers currently pay a one-time registration fee of $150, regardless of their size.

This bill requires investment advisers who register with the SEC to pay an annual fee based on the assets under their management—ranging from $300 for small advisers to $7,000 for the largest ones. Funds raised by these fees will be directed to the SEC Inspection Program. This will make it possible for the SEC to inspect advisers, on average, at least once every 3 to 5 years.

The industry supports this bill and has said it is willing to pay new fees. The industry understands that when investors are cheated by a few, unscrupulous advisers, the reputation of the entire industry suffers.

This bill also is supported by the SEC. Consumer groups wish it would go farther, with new regulation and new disclosure requirements. However, I believe the most important reform needed in this industry is, simply, to provide the resources for adequate oversight.

Some have argued that the SEC could properly fund its adviser inspection program if it moved the funds from its other areas of responsibility. However, virtually every SEC program is currently stretching available resources as a result of the explosion in market activity over the past decade.

For example, while more than $1 billion in new money from investors has flowed into mutual funds every single business day for the past 18 months, the SEC has only 260 staff to oversee mutual funds and other investment companies. Mutual funds are uninsured, but many people view them just like bank accounts.

In the enforcement area the SEC has acknowledged that in the past there have been cases it could not fully pursue, because it lacked the resources. The SEC's Division of Corporation Finance has the staff to review only a fraction of the public offering document, annual reports and other disclosure documents filed with the agency. We have examined each and every SEC program, but in the final analysis, we have concluded that it would not be wise to "rob from Peter to pay Paul."

In addition to the new fees, the bill also has a provision that will reduce costs to the industry by providing for a central registry of investment advisers—so they will not have to file State-by-State.

Finally, most competitors of advisers are required today by other laws to have fidelity bonds, but advisers are not. The bill extends this basic investor protection to investment advisers by giving the SEC authority to require certain advisers to obtain a fidelity bond as a protection against fraud.

Before exercising this authority, the SEC must consider several factors set out in the bill, including the results of a study addressing the availability of fidelity bonds and the impact of requiring fidelity bonds on the competitive position of small investment advisers. The study should consider, for example, whether there is a nationwide market for fidelity bonds. The study also should consider whether fidelity bonds are available outside urban areas and whether insurance companies offering those bonds underwrite on the basis of the rural or urban location of the adviser.

The bill restricts the SEC's ability to require advisers to obtain a fidelity bond if either of two conditions exist: (i) such bonds are not readily or reasonably available in the urban or rural areas in which such advisers are located; or (ii) the cost of obtaining a bond would have a substantial adverse impact on investment advisers' competitive positions. The intention here is not to impose a bonding requirement on certain groups of advisers, if there are any such groups that are unable to obtain bonds because of their geographic locations, or that would suffer a substantial adverse impact on their competitive positions. The SEC's study will examine these issues and should reveal whether fidelity bonds are available in urban and rural areas, and the competitive impact, if any, of requiring fidelity bonds. The results of the study therefore should be important in considering whether either of these two conditions exist.

Let me also say that this bill does not begin to address the over-all level of SEC resources—a matter Congress must address when it considers the SEC's appropriations next year. The SEC's resources across the board for years have not kept up with the growth in size and complexity of the markets that it oversees. I am very concerned about the adequacy of the SEC's resources, and I hope that Congress will act to ensure that the SEC gets the resources to continue providing the oversight which has given the United States the world's largest, most efficient and fair capital markets.

So, I would suggest that we ought to move forward on this, and move forward quickly. A number of Members and their staffs have worked long and hard to get the bill to this point. I would like to thank the cosponsors, Senator RIEGLE, Senator D'AMATO, Senator SHELBY, Senator KERRY, Senator BRYAN, Senator MURRAY, and their staffs for their support and assistance. I also want to thank the subcommittee staff for its hard work in developing the legislation and the hearing record. Finally, I want to thank Chairman Levitt and the superb staff of the SEC for their assistance in drafting the legislation and in helping to resolve a number of difficult issues.

## TECHNICAL CHANGES TO IMMIGRATION AND NATIONALITY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of H.R. 783, a bill making technical changes to the immigration and nationality, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The bill (H.R. 783) making technical changes to the laws relating to immigration and nationality.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1229

(Purpose: To make miscellaneous and technical corrections to the Immigration and Nationality Act, together with changes in the laws relating to nationality and naturalization)

Mr. FORD. Mr. President, on behalf of Senators KENNEDY and SIMPSON, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. KENNEDY], for himself, and Mr. SIMPSON proposes an amendment numbered 1229 in the nature of a substitute.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am offering today with my colleague on the Immigration Subcommittee, Senator SIMPSON, a substitute amendment to H.R. 783 to adopt the House provisions but add the text of S. 1197 which the Senate adopted last July 1st.

This legislation makes a series of technical adjustments to the Immigration and Nationality Act supported by the Administration and which have been pending before Congress for some time. They are remedial in nature, and non-controversial—but long overdue reform nonetheless. A section-by-section analysis of S. 1197 appears in the RECORD of July 1, 1993, on page S-8553, so I will not repeat it here. But I do want to mention some of the provisions contained in the House bill, which we incorporate in this substitute amendment.

Section 202 of the substitute amendment will correct an anomaly in current law that has permitted certain children of U.S. citizens to obtain derivative citizenship, but has denied this right to others. Prior to 1934, a child born abroad to an alien mother and a U.S. citizen father could become a U.S. citizen through his or her father. If, however, the father was an alien and the mother was a citizen, the child could not become a citizen through his mother.

In 1934, Congress revised that rule so that citizenship would be transmitted to the child, regardless of whether the citizen was the father or the mother. The 1934 law, however, was not retroactive. Thus, persons born abroad before noon on May 2, 1934, to a citizen mother and an alien father are not citizens of the U.S. This provision recently has been the subject of significant Constitutional concern, and has been found to be unlawful gender discrimination by the Ninth Circuit Court of Appeals in Wauchope v. United States Dept. of State, 985 F.2d 1407 (9th Cir. 1993).

Section 202 of the substitute amendment rights this situation, permitting persons born of either a U.S. citizen mother or father to acquire citizenship through that parent, regardless of when the person acquiring citizenship was born. The substitute amendment, however, contains one important limitation requested by the Department of Justice. The Department is concerned that the substitute amendment could bestow citizenship on persons who assisted or otherwise participated in Nazi-sponsored persecution on the basis of race, religion, national origin, or political opinion during World War II.

The substitute amendment thus excludes from acquired citizenship those persons born before 1934 of a U.S. citizen mother who have participated in such Nazi atrocities. It likewise would not affect the validity of any denaturalization, deportation, or exclusion proceedings against any person who would not have been eligible to immigrate to the United States by reason of participation in such persecution.

In doing so, the provision requested by the Justice Department would prevent the possible development of an anomalous situation: the conferring of citizenship on an individual whose wartime activities on behalf of the Nazis could be considered by a federal court to have resulted in his or her expatriation if he or she had been born in the United States, or born abroad of a U.S. citizen father. At least one federal court has found that participation in Nazi crimes may, in fact, be considered to be expatriating. United States v. Nikolas Schiffer, 1003 U.S. Dist. LEXIS 11982 (E.D. Pa. 1993).

In the Schiffer decision, the court found that the U.S. born individual had known he was a U.S. citizen when he participated in Nazi atrocities. Persons granted retroactive citizenship by the substitute amendment would not, of course, have known that they were U.S. citizens when they participated in Nazi crimes. Consequently, unless the substitute amendment excludes from retroactive application those who would otherwise be subject to expatriation, it would create a different type of gender-based discrimination: Specifically, some foreign-born children of U.S. citizen fathers will be subject to expatriation for their actions on behalf of the Nazis, but otherwise identically situated children of U.S. citizen mothers will not be.

Mr. President, it is our view that we should exercise discretion and caution in remedying discriminatory provisions of current law, and not take any action that would bestow citizenship on individuals who assisted the Nazi regime in its reign of terror.

Section 207 of the substitute bill would correct an anomaly in the Immigration and Nationality Act involving physical presence of certain persons who became U.S. citizens on the basis of their birth abroad to a U.S. citizen parent and an alien parent. Persons of this background who were born between 1934 and 1952 were required to spend specified periods of time residing in the United States. Failure to do so would, and did, result in the loss of U.S. citizenship. Although these citizenship "retention" laws were repealed in 1978, persons born between 1934 and 1952 who had lost their citizenship did not, under the terms of the 1978 law, have their citizenship restored.

An estimated 2,000 American teenagers and young adults living abroad were stripped of their U.S. citizenship solely because they did not meet the retention requirements. In all likelihood, only a relatively small number of those 2,000 persons would come forward now to be reinstated, were they permitted to do so. For that group, however, regaining their U.S. citizenship is, and has always been, a matter of great importance.

Mr. President, one provision of the House-passed version of this bill has not been included in the substitute amendment due to concerns expressed by Mr. SIMPSON. This provision would have exempted a small number of lawful permanent residents from the history and government knowledge tests currently required of all applicants for naturalization under Section 312 of the Immigration and Nationality Act, due to their physical disability, or age and long-term lawful permanent residence in the U.S.

The persons sought to be included in this exemption were lawful permanent residents over 50 years of age who have been permanent residents for at least 20 years, persons over 55 years of age with at least 15 years of permanent resident status in the U.S., and persons of any age who are "physically unable" to pass the test. The provision would have brought the requirements of the history and government knowledge tests into conformity with requirements of current law relating to knowledge of the English language.

Mr. President, I believe that all reasonable measures should be taken to encourage naturalization of productive

and law-abiding permanent residents. Therefore, while I accede to Mr. SIMPSON'S request to not include this provision in the substitute amendment, I wish to emphasize that Section 312 of the Immigration and Nationality Act, as currently in force, requires that applicants for naturalization demonstrate a basic understanding of the fundamentals of American history and our system of government. I am informed that the Immigration and Naturalization Service at times erroneously requires that applicants, including older, long-term permanent residents, demonstrate a sophisticated knowledge of these areas. This practice can only work to arbitrarily exclude deserving applicants from full participation in U.S. society, and therefore should, in my view, be discontinued.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1229) was agreed to.

The PRESIDING OFFICER. Without objection, the bill, as amended, is deemed read a third time and passed.

So the bill (H.R. 783), as amended, was deemed read a third time and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 241, H.R. 2840, a bill relating to copyright arbitration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2840) to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1230

(Purpose: To amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes)

Mr. FORD. Mr. President, on behalf of Senators DECONCINI and STEVENS, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. DECONCINI for himself and Mr. STEVENS, proposes and amendment numbered 1230.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DECONCINI. Mr. President, I rise today in support of passage of the Senate amendment to H.R. 2840, the Copyright Royalty Tribunal Reform Act of 1993. The Senate amendment in the nature of a substitute to H.R. 2840 eliminates the Copyright Royalty Tribunal and replaces it with ad hoc arbitration panels that are to be convened by the Librarian of Congress as needed. Extinguishing the often contentious Copyright Royalty Tribunal returns the copyright royalty process to the Copyright Office and the Library of Congress, as was originally envisioned, while maintaining the constitutionally required oversight of an executive function. Consolidation of the process in the Copyright Office and Library, as administered by the arbitration panels, should better serve the modern government mandate of doing more with less.

Hearings were held on the Senate companion bill S. 1346, on October 5, 1993. The bill before the Senate today reflects changes made to incorporate suggestions made during deliberations on the legislation. However, the basic premise of this bill has remained intact throughout the process. Ratemakings and distributions of copyright royalties collected pursuant to the compulsory licenses are to be made by three member ad hoc arbitration panels convened by the Librarian of Congress. The Librarian, after consultation with the Register of Copyrights, selects the first two arbitrators from professional arbitration associations. The two so selected shall, within 10 days of their selection, choose the third arbitrator to serve as chairperson. If the two cannot reach agreement, the Librarian shall select the third.

Great care has been taken to assure the neutrality of the arbitrators, and the bill has been improved in this regard in several areas. First, the selection process has been revised. Originally, the bill directed the Librarian to select arbitrators from lists of persons provided by the participating parties, but it was felt that this would create a pool of arbitrators with bias toward the party or parties submitting their name. Simple selection by the Librarian of members of professional arbitration associations dramatically reduces the changes of any panel member having affiliation with the participating parties.

Second, the bill requires certain qualifications of the arbitrators. Each arbitrator must have "experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes," along with any additional qualifications that the Librarian may prescribe by regulation. This provision assures that the arbitrators will possess sufficient knowledge and ability not only to conduct arbitration proceedings, but to facilitate settlement among the parties as well.

Third, the bill directs the Librarian to adopt standards of conduct governing the arbitrators and proceedings. This injects the new system with a code of conduct not currently in existence in the Copyright Royalty Tribunal. The rules of conduct will include requirements of full disclosure by the arbitrators to prevent conflicts of interest, control of ex parte communications and avoidance of impropriety. This assures that the proceedings will be conducted in an ethical and professional manner.

Once an arbitration panel is formally convened, the panel is given 180 days to report its findings and conclusions to the Librarian of Congress. This is a deliberate expansion of the 60-day time period of the section 119 satellite carrier arbitration procedure, which many of the participating parties felt was too brief. The bill directs the panel to compile a fully documented written record, and any party to the proceeding may submit relevant information and proposals to the panel. The conduct of the proceeding is governed by the Administrative Procedure Act [APA], and the Librarian is directed to adopt the current rules and regulations of the Copyright Royalty Tribunal. These rules, however, may be supplemented and superseded by new rules adopted by the Librarian, so long as they conform with the APA. The bill also directs the panels to act in accordance with the APA, thereby governing situations and actions not specified by regulations.

Once an arbitration panel has completed its report and delivered it to the Librarian, the Librarian is given 60 days in which to review the decision. The Librarian, upon the recommendation of the Register of Copyrights, is directed to adopt the panel's report unless he/she finds that the determination is "arbitrary or contrary to the applicable provisions" of the Copyright Act. The zone of reasonableness to be accorded the panel's decision is, therefore, quite broad, which comports with federal circuit court precedent governing the Copyright Royalty Tribunal. If the Librarian does find the decision to be arbitrary or contrary to the Copyright Act, then the Librarian must, prior to the expiration of the 60-day review period, issue an order setting the applicable royalty rate or the distribution, whichever the case may be. The Librarian's decision, either to accept or reject the panel report, is to be published in the Federal Register and otherwise made available to the parties and the public, along with the arbitration panel report and the accompanying record of the proceedings.

Parties aggrieved and bound by the Librarian's decision are given 30 days in which to appeal the decision directly

to the U.S. Court of Appeals for the District of Columbia Circuit. The appeals process mirrors that of the successful section 119 satellite carrier ratemaking procedure. The court is permitted to accept, modify, or vacate and remand the Librarian's decision for further arbitration proceedings.

The Copyright Royalty Tribunal Act of 1993 establishes the Library and the Copyright Office as administrative overseers of royalty ratemaking and distribution, thereby filling in the administrative gaps left by the dissolution of the Copyright Royalty Tribunal. On the front end of the arbitration process, the Library will continue to receive and process the royalty claims of copyright owners for fees collected pursuant to the compulsory licenses, as well as any petitions for changes in the royalty rates. The bill vests the Library with the additional authority to make any necessary procedural or evidentiary rulings prior to the convocation of an arbitration panel, which will assist the development and organization of the proceeding. Once the panels are convened, the bill directs the Library and Copyright Office to provide the necessary administrative assistance, such as technical, financial and clerical support. And as discussed above, the Librarian will participate in the tail end of the arbitration process by reviewing the decisions of the panels.

The issue of costs involved in the new system is also addressed. The original bill directed the arbitration panels to assess the costs of each proceeding directly to the participating parties. The Library expressed concerns in the hearing before this subcommittee regarding costs associated with its new responsibility, and the bill was amended to allow the Library to recover its full cost of implementation and execution through deduction of expenditures from the relevant royalty pools. In ratemaking proceedings where no royalty pool exists, the Library is allowed to assess the participating parties for its reasonable expenditures. The remaining appropriation for fiscal year 1994 for the Copyright Royalty Tribunal is transferred to the Library to ease the financial burden of transition. The sum of the amendments is to create a system that is fully funded by the participants, thereby eliminating the cost to the taxpayers for continued operation of the Copyright Royalty Tribunal.

This bill makes technical and conforming amendments within the compulsory licenses, sections 115 through 119 and chapter 10 of the Copyright Act. The most significant of these is repeal of the jukebox compulsory license, section 116, and its replacement with current section 116A, which provides for negotiated licenses. In the event the current negotiated license expires, the Librarian is directed to convene an arbitration panel to continue the expired agreement rates on an interim basis until replaced with new arbitrated rates or new negotiated licenses.

This bill will improve the process, eliminate an unnecessary agency, and insure that the costs of conducting ratemaking and distributions of fees under the copyright compulsory licenses will be fully funded by the parties involved.

Mr. FORD. Mr. President, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 1230) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2840), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LEASING OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3471, a bill to authorize the leasing of naval vessels to certain foreign countries, just received from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; that any statements relating to this measure be included in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3471) was deemed read three times and passed.

## INTERNATIONAL PARENTAL KIDNAPING

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3378, a bill relating to international parental kidnaping, just received from the House, that the bill be read three times, passed and the motion to reconsider laid upon the table; that any statements relating thereto be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3378) was deemed read three times and passed.

Mr. RIEGLE. Mr. President, I rise to thank my colleagues in both House and Senate for passing legislation that is very important to families torn apart by the crime of parental kidnaping. This legislation is called the International Parental Kidnaping Crime Act of 1993.

Each year hundreds of American children are kidnaped by a parent and held hostage overseas. As a result, the child's other parent is left to face the trauma of losing a son or daughter, with little recourse under the law to regain custody or even have contact with the child. Thousands of families have been torn apart in this manner. Since 1973 there have been nearly 4,000 reported cases of international child abduction, with more than 600 cases in 1992 alone.

A parent whose child is abducted must live with the nightmare of having a loved one stolen away with only a faint hope of seeing the child again. Moreover, the kidnaped children suffer the mental anguish of seeing their family split apart, and being taken against their will to live in a foreign country. The suffering that this crime causes to thousands of American families deserves greater public attention and these kidnapers must be dealt with effectively under the law.

One Michigan woman has helped bring attention to this problem. Betty Mahmoody of Alpena, MI, experienced this problem when her husband, Dr. Sayyed Bozorg Mahmoody, refused to allow their daughter, Mahtob, to leave Iran. Betty wrote a very moving book called "Not Without My Daughter," about her successful effort to bring Mahtob back to this country. Betty's story illustrates how current law is inadequate to help when this type of kidnaping occurs.

With the passage of this legislation, international parental kidnaping becomes a felony under Federal law, filling a gap in current law and greatly enhancing our efforts to prevent further acts of this type. Federal criminal charges will enable the United States Government to extradite many kidnapers from countries with whom we already have extradition treaties. This crime's status as a Federal offense will also strengthen the position of the State Department when negotiating for the return of American children. Moreover, this legislation will act as an effective deterrent to parental kidnapers and will send a strong signal that the United States considers international parental kidnaping to be a serious crime.

Mr. President, the Congress has tried since 1987 to pass this type of legislation. During that time hundreds more kidnapings have occurred and equally many families have suffered. I am pleased that we will finally succeed in enacting this legislation to prevent the future suffering of countless children and families across the country.

## NATIONAL CRIMINAL BACKGROUND CHECK FOR CHILD CARE PROVIDERS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1237, a bill to establish procedures for a national criminal background check for child care providers, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1237) to establish procedures for a national criminal background check for child care providers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I rise in support of legislation to confront what I believe is one of the most threatening dangers confronting the Nation—the tragedy of child abuse.

The national extent of child abuse and neglect has grown to shocking epidemic proportions—more than 2½ million reports of child abuse and neglect are made each year.

Many abused children are victimized in their homes, but there is a large and growing number of children being victimized outside the home.

Today, about 6 million preschool children are in a day care program for some or all of their day. By 1995, at least 8 million preschoolers will be in day care.

This rapidly growing rise in children being cared for outside their homes must be met by an expanded national effort to protect these children. This is the goal of the National Child Protection Act I introduce today.

Just 2 years ago, the Senate Judiciary Committee convened a hearing to discuss this proposal—with television personality and child abuse activist Ms. Oprah Winfrey, and several child abuse experts. Ms. Winfrey brought to the committee a plan that was the foundation for the National Child Protection Act of 1993.

Since then, Ms. Winfrey has kept her commitment to this legislation and to the important cause of combating child abuse. And, her energy and devotion to this issue is the single-most important reason this legislation is about to become law.

The idea behind the National Child Protection Act of 1993 is clear: We must do everything we can to detect convicted criminals before they are hired as child care workers, not after another tragedy takes place.

If enacted, this act will help build the State and national systems necessary to prevent convicted criminals from being hired as child care workers. In 1991, similar systems in just six States identified more than 6,200 individuals—convicted of serious criminal offenses, such as sex offenses, child abuse, violent crimes, and felony drug charges—seeking jobs as child care providers.

How many children would have been put at risk if these convictions had not been detected? How many children are at risk today because they live in States without checks to identify convicted criminals? to both questions, of course, the answer is "Too many."

I would like to credit Senator DECONCINI, who in 1984, along with Congressman GEORGE MILLER, wrote the first law calling for national criminal background checks for child care workers. In addition, Senator SPECTER was also involved in developing such systems when he proposed the Juvenile Detention Employees Act of 1983.

The Crime Control Act of 1990—signed into law nearly 3 years ago—extended similar background check requirements for Federal day care services. Senator REID and I wrote this legislation, which is helping to protect the thousands of children served every day in Federal agencies' day care centers. Today, we must have such a system available to all.

In addition, Senator MCCONNELL has introduced background check legislation.

Senator DECONCINI, Senator SPECTER, Senator REID, Senator MCCONNELL, myself, several other Senators, and many Congressmen have devoted countless hours to this important issue. After all these efforts, we cannot delay any longer.

Today, I am pleased that the National Child Protection Act is about to become law. But, I would like to acknowledge the efforts of several Senators who have cosponsored this legislation—Senators HATCH, DECONCINI, THURMOND, SIMON, GRASSLEY, HEFLIN, METZENBAUM, and MCCONNELL.

And, again, I would point out that the real reason the National Child Protection Act is about to become law is the caring and committed heart of Ms. Oprah Winfrey.

The PRESIDING OFFICER. If there is no objection, the bill is considered to have been read three times and passed.

So the bill (H.R. 1237) was deemed read three times and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1993

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (H.R. 2632).

A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1994.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments: In lieu of the text proposed to be inserted by the Senate amendment, insert the following:

***SEC. 5. INTERIM PATENT EXTENSIONS.***

*Section 156 of title 35, United States Code, is amended—*

*(1) in subsection (c)(4) by striking out "extended" and inserting "extended under subsection (e)(1)";*

*(2) in the second sentence of subsection (d)(1) by striking "Such" and inserting "Except as provided in paragraph (5), such"; and*

*(3) by adding at the end of subsection (d) the following new paragraph:*

*"(5)(A) If the owner of record of the patent or its agent reasonably expects that the applicable regulatory review period described in paragraph (1)(B)(ii), (2)(B)(ii), (3)(B)(ii), (4)(B)(ii), or (5)(B)(ii) of subsection (g) that began for a product that is the subject of such patent may extend beyond the expiration of the patent term in effect, the owner or its agent may submit an application to the Commissioner for an interim extension during the period beginning 6 months, and ending 15 days, before such term is due to expire. The application shall contain—*

*"(i) the identity of the product subject to regulatory review and the Federal statute under which such review is occurring;*

*"(ii) the identity of the patent for which interim extension is being sought and the identity of each claim of such patent which claims the product under regulatory review or a method of using or manufacturing the product;*

*"(iii) information to enable the Commissioner to determine under subsection (a)(1), (2), and (3) the eligibility of a patent for extension;*

*"(iv) a brief description of the activities undertaken by the applicant during the applicable regulatory review period to date with respect to the product under review and the significant dates applicable to such activities; and*

*"(v) such patent or other information as the Commissioner may require.*

*"(B) If the Commissioner determines that, except for permission to market or use the product commercially, the patent would be eligible for an extension of the patent term under this section, the Commissioner shall publish in the Federal Register a notice of such determination, including the identity of the product under regulatory review, and shall issue to the applicant a certificate of interim extension for a period of not more than 1 year.*

*"(C) The owner of record of a patent, or its agent, for which an interim extension has been granted under subparagraph (B), may apply for not more than 4 subsequent interim extensions under this paragraph, except that, in the case of a patent subject to subsection (g)(6)(C), the owner of record of the patent, or its agent, may apply for only 1 subsequent interim extension under this paragraph. Each such subsequent application shall be made during the period beginning 60 days before, and ending 30 days before, the expiration of the preceding interim extension.*

*"(D) Each certificate of interim extension under this paragraph shall be recorded in the official file of the patent and shall be considered part of the original patent.*

*"(E) Any interim extension granted under this paragraph shall terminate at the end of the 60-day period beginning on the date on which the product involved receives permission for commercial marketing or use, except that, if within that 60-day period the applicant notifies the Commissioner of such permission and submits any additional information under paragraph (1) of this subsection not previously contained in the application for interim extension, the patent*

*shall be further extended, in accordance with the provisions of this section—*

*"(i) for not to exceed 5 years from the date of expiration of the original patent term; or*

*"(ii) if the patent is subject to subsection (g)(6)(C), from the date on which the product involved receives approval for commercial marketing or use.*

*"(F) The rights derived from any patent the term of which is extended under this paragraph shall, during the period of interim extension—*

*"(i) in the case of a patent which claims a product, be limited to any use then under regulatory review;*

*"(ii) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent then under regulatory review; and*

*"(iii) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the product then under regulatory review.".*

***SEC. 6. CONFORMING AMENDMENTS.***

*Section 156 of title 35, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1) by striking "(d)" and inserting "(d)(1)"; and*

*(B) in paragraph (3) by striking "subsection (d)" and inserting "paragraphs (1) through (4) of subsection (d)";*

*(2) in subsection (b) by striking "The rights" and inserting "Except as provided in subsection (d)(5)(F), the rights"; and*

*(3) in subsection (e)—*

*(A) in paragraph (1) by striking "subsection (d)" and inserting "paragraphs (1) through (4) of subsection (d)"; and*

*(B) in paragraph (2) by striking "(d)" and inserting "(d)(1)".*

***SEC. 7. PATENT TERM EXTENSIONS FOR AMERICAN LEGION.***

*(a) BADGE OF AMERICAN LEGION.—The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.*

*(b) BADGE OF AMERICAN LEGION WOMEN'S AUXILIARY.—The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.*

*(c) BADGE OF SONS OF THE AMERICAN LEGION.—The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.*

***SEC. 8. INTERVENING RIGHTS.***

*The renewals and extensions of the patents under section 6 shall not result in infringement of any such patent on account of any use of the subject matter of the patent, or substantial preparation for such use, which began after the patent expired, but before the date of the enactment of this Act.*

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 319, S. 717, the Egg Research and Consumer Information Act Amendments of 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1993".

**SEC. 2. ASSESSMENT RATE.**

(a) IN GENERAL.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—

(1) by designating the first and second sentences as paragraph (1);

(2) by designating the fifth and sixth sentences as paragraph (3); and

(3) by striking the third and fourth sentences and inserting the following new paragraph:

"(2)(A) The assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

"(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).

"(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.".

(b) REFERENDUM.—Section 9 of such Act (7 U.S.C. 2708) is amended—

(1) by designating the first and second sentences as subsection (a);

(2) by designating the last sentence as subsection (c); and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following new subsection:

"(b)(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

"(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this Act who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

"(B) The change in the assessment rate shall become effective if the change is approved or favored by—

"(i) not less than two-thirds of the producers voting in the referendum; or

"(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

"(3)(A) In the case of the order in effect on the date of enactment of this subsection, the Egg Board shall determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2).

"(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

"(i) 120 days after receipt of the request from the Egg Board; or

"(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.".

**SEC. 3. EXEMPTED PRODUCERS.**

Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".

**SEC. 4. AMENDMENT TO ORDER.**

Notwithstanding any other provision of law:

(1) IN GENERAL.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. The amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to the order not later than 90 days after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by paragraph (1) shall become effective not later than—

(A) 30 days after the date of enactment of this Act; or

(B) if the Director of the Office of Management and Budget determines that the amendments are a significant action that requires review by the Director, 50 days after the date of enactment of this Act.

(3) REFERENDUM.—The amendments referred to in paragraph (2) shall not be subject to a referendum conducted under the Egg Research and Consumer Information Act.

AMENDMENT NO. 1231

(Purpose: To strengthen the research component of the egg research and promotion program)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. PRYOR proposes an amendment numbered 1231.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Between sections 2 and 3 of the Committee amendment, insert the following new section:

**SEC. 3. RESEARCH.**

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

In section 3 of the Committee amendment (relating to exempted producers), strike "SEC. 3" and insert "SEC. 4".

In section 4 of the Committee amendment (relating to amendments to the order), strike "SEC. 4" and insert "SEC. 5".

On page 9, line 20 of the Committee reported bill, strike "90" and insert in lieu thereof "80."

On page 10, line 1 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

On page 10, line 6 of the Committee reported bill, strike "date of enactment of this Act" and insert in lieu thereof "proposed amendments are issued"

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1231) was agreed to.

The PRESIDING OFFICER. Without objection, the committee amendment, as amended, is agreed to.

The PRESIDING OFFICER. The bill is deemed to have been read three times and passed.

So the bill (S. 717), as amended, was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## THE DIETARY SUPPLEMENTAL REGULATION MORATORIUM ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1762, introduced earlier today by Senators HATCH and KENNEDY, a bill to impose a moratorium with respect to the issuance of regulations on dietary supplements; that the bill be read a third time and passed; that the motion to reconsider be laid on the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1762) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. KENNEDY. Mr. President, I join Senator HATCH in introducing the Dietary Supplement Regulation Moratorium Act of 1993. The purpose of the bill is to add 4 months to the current moratorium on the regulation of dietary supplements, which is due to expire on December 31, 1993.

Last Congress, Senator HATCH and I sponsored the Dietary Supplement Act of 1992 which instituted a moratorium on the implementation of certain provisions of the Nutrition Labeling and Education Act of 1990 relating to dietary supplements, such as vitamins, minerals, herbs, and other similar nutritional substances. This bill extends the moratorium for 4 months and also delays the issuance of several final regulations relating to dietary supplements by the Department of Health and Human Services.

The original moratorium was intended to provide us with an opportunity to learn more about supplements and to ensure that any regulations would be appropriate. I believe the Congress and the public have clearly benefited from this time. Much work has been done, but it has not been completed.

Today, there is broad consensus that consumers should have access to all safe dietary supplements, and that the issue of safety for products currently on the market should be resolved by placing the burden of proof on the FDA to remove products from the market which are unsafe, rather than requiring manufacturers to prove that supplements are safe.

We all agree that there is no justification for fraudulent claims by dietary supplements or any other product. We must also ensure that consumers can benefit from the most up-to-date medical knowledge about the health benefits of supplements. It is essential that decisions on the validity of supplement health claims be based on a fair assessment of the available evidence. We must be certain that the decisions are unbiased, and are made in a timely manner.

All of us in Congress have received a large number of calls and letters from constituents concerned that the supplements they rely on may no longer be available. Millions of Americans use supplements. We have an important responsibility to ensure that safety and health claims have been established by responsible manufacturers working within a regulatory framework that is absolutely fair and unbiased.

In April, Senator HATCH introduced the Dietary Supplement Health and Education Act, which proposes a set of regulatory reforms. While Senator HATCH and I have worked with our colleagues throughout this session of Congress to reach an agreement, we have simply been unable to reach a compromise. I believe we have made significant progress, and though I regret we have not completed our work, I believe we are close to reaching an agreement.

It is very important that we resolve the outstanding issues in a timely fashion. There is no purpose served by delay. Ending the uncertainty surrounding dietary supplements must be our priority. An extension of the moratorium will give us time necessary to deal with the remaining important issues. However, Senator HATCH and I have decided to seek only a short moratorium to assure the public that Congress will focus on this issue immediately upon its return in January.

Mrs. KASSEBAUM. Mr. President, I am pleased to join Senators HATCH and KENNEDY in supporting the passage of the Dietary Supplement Regulation Moratorium Act of 1993. This legislation provides a 4-month extension, to April 15, 1994, of the current moratorium on the Nutrition Labeling and Education Act regulations' application to dietary supplements. Unless extended, the current moratorium will expire on December 15 of this year.

Many Americans who use dietary supplements and are convinced of their safety and efficacy are deeply concerned that the regulations the Food and Drug Administration [FDA] has proposed to implement the Nutrition Labeling and Education Act reflect an historic agency bias against these products and will limit access to and up-to-date, scientific information about the benefits of these products. I share these concerns.

The FDA's regulation of dietary supplements has long been controversial, but recent FDA actions have greatly heightened the public's alarm over the agency's intentions and its ability to reasonably and fairly regulate these products. In addition to conducting heavy-handed and seemingly capricious raids on some distributions, the FDA has not appeared to be responsive to a dialog on the issues surrounding the appropriate regulation of supplements.

For example, the agency initially proposed a very broad interpretation of

what would be considered unapproved labeling. As my constituents and I read the proposed regulations, a retailer who made available to customers studies or news accounts of studies in dietary supplements published in respected scientific journals such as the "New England Journal of Medicine" would be guilty in the FDA's eyes of making unapproved health claims, and the products could be removed from the market.

Under the provisions of the current moratorium, the FDA was required to reissue its proposed regulations for dietary supplements in June. Instead of using this additional time to rethink its heavy-handed approach to protecting consumers against misleading claims and other controversial issues, the agency simply reissued the original regulations. At the same time, further fueling public alarm, the agency published the recommendations of an internal dietary supplement task force—the Dykstra report—and a notice of proposed rulemaking that, taken together, give very strong indications that the agency is bent on requiring prescriptions for some supplements and removing others from the market entirely.

Further heightening the public's concern that the FDA is biased against dietary supplements and incapable of fairly evaluating their potential or real contributions to health promotion and disease prevention is the agency's slowness to approve well-documented, legitimate claims. A case in point is the claim that folic acid helps to prevent birth defects. Over 2 years ago, the Centers for Disease Control and Prevention indicated that folic acid was effective in preventing birth defects and recommended that women in their childbearing years should supplement their diets. A year ago, the Public Health Service—the FDA's parent agency—made the same recommendation. Only within the past several weeks, however, has the FDA acted to approve this claim for folic acid as a dietary supplement.

In the past week, we made some encouraging progress toward resolving the many controversial issues surrounding the FDA's interpretation of the Nutrition Labeling and Education Act as it applies to dietary supplements, but several major issues remain to be resolved. I am hopeful that, with additional negotiating time, we will be able to reach consensus on an appropriate framework for safeguarding consumer health, protecting consumer choice, and ensuring that consumers have the information they need to take greater responsibility for their health through informed dietary choices.

I therefore encourage my colleagues to join me in supporting the Dietary Supplement Regulation Moratorium Act of 1993.

## AMENDING THE ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of S. 1457, a bill to amend the Aleutian and Pribilof Islands Restitution Act; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this measure appear in the RECORD at appropriate place as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1457) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be added as an original cosponsor to S. 1457, the Aleutian and Pribilof Island Restitution Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 320, S. 994, the Fresh Cut Flower Promotion Act of 1993.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

A bill (S. 994) to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993".*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

*Sec. 1. Short title and table of contents.*
*Sec. 2. Findings and declaration of policy.*
*Sec. 3. Definitions.*
*Sec. 4. Issuance of orders.*
*Sec. 5. Required terms in orders.*
*Sec. 6. Exclusion; determinations.*
*Sec. 7. Referenda.*
*Sec. 8. Petition and review.*
*Sec. 9. Enforcement.*
*Sec. 10. Investigations and power to subpoena.*
*Sec. 11. Confidentiality.*
*Sec. 12. Authority for Secretary to suspend or terminate order.*
*Sec. 13. Construction.*
*Sec. 14. Regulations.*
*Sec. 15. Authorization of appropriations.*

***SEC. 2. FINDINGS AND DECLARATION OF POLICY.***

*(a) FINDINGS.—Congress finds that—*

*(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;*

*(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and*

*(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;*

*(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—*

*(A) purchase most of the cut flowers and cut greens marketed by producers;*

*(B) prepare the cut flowers and cut greens for retail consumption;*

*(C) serve as an intermediary between the source of the product and the retailer;*

*(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and*

*(E) add efficiencies to the market process that ensure the availability of a much greater variety of the product to retailers and consumers;*

*(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;*

*(5)(A) cut flowers and cut greens move in interstate and foreign commerce; and*

*(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;*

*(6) the maintenance and expansion of markets in existence on the date of enactment of this Act, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;*

*(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;*

*(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on the date of enactment of this Act and the development of new markets for cut flowers and cut greens have been prevented;*

*(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information*

*program authorized by this Act in that the program will enhance the market development efforts of the programs for domestic producers;*

*(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and*

*(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.*

*(b) POLICY AND PURPOSE.—It is the policy of Congress that it is in the public interest, and it is the purpose of this Act, to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.*

**SEC. 3. DEFINITIONS.**

*As used in this Act:*

*(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.*

*(2) CUT FLOWERS AND CUT GREENS.—*

*(A) IN GENERAL.—*

*(i) CUT FLOWERS.—The term "cut flowers" includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.*

*(ii) CUT GREENS.—The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.*

*(iii) EXCLUSIONS.—The terms "cut flowers" and "cut greens" do not include a foliage plant, floral supply, or flowering plant.*

*(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.*

*(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens from a handler to a retailer or exempt handler.*

*(4) HANDLER.—*

*(A) QUALIFIED HANDLER.—*

*(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—*

*(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and*

*(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.*

*(ii) INCLUSIONS AND EXCLUSIONS.—*

*(I) IN GENERAL.—The term "qualified handler" includes—*

*(aa) bouquet manufacturers (subject to paragraph (2)(B));*

*(bb) an auction house that clears the sale of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse; and*

*(cc) a distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales.*

*(II) TRANSFERS.—For the purpose of determining sales of cut flowers and cut greens to a retailer from a distribution center described in subclause (I)(cc), each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C).*

*(III) TRANSPORTATION OR DELIVERY.—The term "qualified handler" does not include a person who only physically transports or delivers cut flowers or cut greens.*

*(iii) CONSTRUCTION.—*

*(I) IN GENERAL.—The term "qualified handler" includes an importer or producer that sells cut flowers or cut greens that the importer or producer has imported into the United States or produced, respectively, directly to consumers and whose sales of the cut flowers and cut greens (as calculated under subparagraph (C)), together with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more.*

*(II) SALES.—Each direct sale to a consumer by a qualified handler described in subclause (I) shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in subparagraph (C).*

*(III) DEFINITIONS.—As used in this paragraph:*

*(aa) IMPORTER.—The term "importer" has the meaning provided in section 5(b)(2)(B)(i)(I).*

*(bb) PRODUCER.—The term "producer" has the meaning provided in section 5(b)(2)(B)(ii)(I).*

*(B) EXEMPT HANDLER.—The term "exempt handler" means a person who would otherwise be considered to be a qualified handler, except that the annual sales by the person of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.*

*(C) ANNUAL SALES DETERMINED.—*

*(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of the cut flowers and cut greens sold.*

*(ii) TRANSFERS.—*

*(I) NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (III), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center (as described in subparagraph (A)(ii)(II)), or a direct sale to a consumer by an importer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to the sum of—*

*(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and*

*(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by an order to represent the mark-up of a wholesale handler on a sale to a retailer.*

*(II) DIRECT SALES BY PRODUCERS.—Subject to subclause (III), in the case of a direct sale to a consumer by a producer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by an order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.*

*(III) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (I) or (II) may become effective after—*

*(aa) recommendation by the PromoFlor Council; and*

*(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.*

*(5) ORDER.—The term "order" means an order issued under this Act (other than sections 9, 10, and 12).*

*(6) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.*

*(7) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 5(b).*

*(8) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.*

*(9) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.*

*(10) RETAILER.—*

*(A) IN GENERAL.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller), as described in an order, that sells cut flowers or cut greens to consumers, and a distribution center described in subparagraph (B)(i).*

*(B) DISTRIBUTION CENTERS.—*

*(i) IN GENERAL.—The term "retailer" includes a distribution center that is—*

*(I) owned or controlled by a person described in subparagraph (A), or owned or controlled cooperatively by a group of the persons, if the predominant retail business activity of the person is not floral sales; or*

*(II) independently owned but operated primarily to provide food products to retail stores.*

*(ii) IMPORTERS AND PRODUCERS.—An independently owned distribution center described in clause (i)(II) that also is an importer or producer of cut flowers or cut greens shall be subject to the rules of construction specified in paragraph (4)(A)(iii) and, for the purpose of the rules of construction, be considered to be the seller of the articles directly to the consumer.*

*(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.*

*(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified).*

*(13) UNITED STATES.—The term "United States" means the States collectively.*

**SEC. 4. ISSUANCE OF ORDERS.**

*(a) IN GENERAL.—*

*(1) ISSUANCE.—To effectuate the policy of this Act specified in section 2(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to qualified handlers of cut flowers and cut greens.*

*(2) SCOPE.—Any order shall be national in scope.*

*(3) ONE ORDER.—Not more than 1 order shall be in effect at any 1 time.*

*(b) PROCEDURES.—*

*(1) PROPOSAL FOR AN ORDER.—*

*(A) SECRETARY.—The Secretary may propose the issuance of an order.*

*(B) OTHER PERSONS.—An industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person who will be affected by this Act, may request the issuance of, and submit a proposal for, an order.*

*(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—*

*(A) the date on which the Secretary proposes an order, as provided in paragraph (1)(A); and*

*(B) the date of the receipt by the Secretary of a proposal for an order, as provided in paragraph (1)(B).*

*(3) ISSUANCE OF ORDER.—*

*(A) IN GENERAL.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this Act.*

*(B) EFFECTIVE DATE.—The order shall be issued and become effective not later than 180 days after publication of the proposed order.*

*(c) AMENDMENTS.—The Secretary, from time to time, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order.*

***SEC. 5. REQUIRED TERMS IN ORDERS.***

*(a) IN GENERAL.—An order shall contain the terms and provisions specified in this section.*

*(b) PROMOFLOR COUNCIL.—*

*(1) ESTABLISHMENT AND MEMBERSHIP.—*

*(A) ESTABLISHMENT.—The order shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council, consisting of 25 members, to administer the order.*

*(B) MEMBERSHIP.—*

*(i) APPOINTMENT.—The order shall provide that members of the PromoFlor Council shall be appointed by the Secretary from nominations submitted as provided in paragraphs (2) and (3).*

*(ii) COMPOSITION.—The PromoFlor Council shall consist of—*

*(I) participating qualified handlers representing qualified wholesale handlers and producers and importers that are qualified handlers;*

*(II) representatives of traditional retailers; and*

*(III) representatives of persons who produce fresh cut flowers and fresh cut greens.*

*(2) DISTRIBUTION OF APPOINTMENTS.—*

*(A) IN GENERAL.—The order shall provide that the membership of the PromoFlor Council shall consist of—*

*(i) 14 members representing qualified wholesale handlers of domestic or imported cut flowers and cut greens;*

*(ii) 3 members representing producers that are qualified handlers of cut flowers and cut greens;*

*(iii) 3 members representing importers that are qualified handlers of cut flowers and cut greens;*

*(iv) 3 members representing traditional cut flowers and cut greens retailers; and*

*(v) 2 members representing persons who produce fresh cut flowers and fresh cut greens, of whom—*

*(I) 1 member shall represent persons who produce the flowers or greens in locations that are east of the Mississippi River; and*

*(II) 1 member shall represent persons who produce the flowers or greens in locations that are west of the Mississippi River.*

*(B) DEFINITIONS.—As used in this subsection:*

*(i) IMPORTER THAT IS A QUALIFIED HANDLER.—The term "importer that is a qualified handler" means an entity—*

*(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and*

*(II) that is subject to assessments as a qualified handler under the order.*

*(ii) PRODUCER THAT IS A QUALIFIED HANDLER.—The term "producer that is a qualified handler" means an entity that—*

*(I) is engaged—*

*(aa) in the domestic production, for sale in commerce, of cut flowers or cut greens and that owns or shares in the ownership and risk of loss of the cut flowers or cut greens; or*

*(bb) as a first processor of noncultivated cut greens, in receiving the cut greens from a person who gathers the cut greens for handling; and*

*(II) is subject to assessments as a qualified handler under the order.*

*(iii) QUALIFIED WHOLESALE HANDLER.—*

*(I) IN GENERAL.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier that is subject to assessments as a qualified handler under the order.*

*(II) DEFINITIONS.—As used in this clause:*

*(aa) FLORAL SUPPLIER.—The term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.*

*(bb) FLORAL WHOLESALE JOBBER.—The term "floral wholesale jobber" means a person who conducts a commission or other wholesale business in buying and selling cut flowers or cut greens.*

*(C) DISTRIBUTION OF QUALIFIED WHOLESALE HANDLER APPOINTMENTS.—The order shall provide that the appointments of qualified wholesale handlers to the PromoFlor Council made by the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States.*

*(3) NOMINATION PROCESS.—The order shall provide that—*

*(A) 2 nominees shall be submitted for each appointment to the PromoFlor Council;*

*(B) nominations for each appointment of a qualified wholesale handler, producer that is a qualified handler, or importer that is a qualified handler to the PromoFlor Council shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, respectively, through an election process, in accordance with regulations issued by the Secretary;*

*(C) nominations for—*

*(i) 1 of the retailer appointments shall be made by the American Floral Marketing Council or a successor entity; and*

*(ii) 2 of the retailer appointments shall be made by traditional retail florist organizations, in accordance with regulations issued by the Secretary;*

*(D) nominations for each appointment of a representative of persons who produce fresh cut flowers and fresh cut greens shall be made by the persons through an election process, in accordance with regulations issued by the Secretary; and*

*(E) in any case in which qualified wholesale handlers, producers that are qualified handlers, importers that are qualified handlers, persons who produce fresh cut flowers and fresh cut greens, or retailers fail to nominate individuals for an appointment to the PromoFlor Council, the Secretary may appoint an individual to fill the vacancy on a basis provided in the order or other regulations of the Secretary.*

*(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary in accordance with procedures specified in the order.*

*(5) TERMS; COMPENSATION.—The order shall provide that—*

*(A) each term of appointment to the PromoFlor Council shall be for 3 years, except that, of the initial appointments, 9 of the appointments shall be for 2-year terms, 8 of the appointments shall be for 3-year terms, and 8 of the appointments shall be for 4-year terms;*

*(B) no member of the PromoFlor Council may serve more than 2 consecutive terms of 3 years, except that any member serving an initial term of 4 years may serve an additional term of 3 years; and*

*(C) members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for the expenses of the members incurred in performing duties as members of the PromoFlor Council.*

*(6) EXECUTIVE COMMITTEE.—*

*(A) ESTABLISHMENT.—*

*(i) IN GENERAL.—The order shall authorize the PromoFlor Council to appoint, from among the members of the Council, an executive committee of not more than 9 members.*

*(ii) INITIAL MEMBERSHIP.—The membership of the executive committee initially shall be composed of—*

*(I) 4 members representing qualified wholesale handlers;*

*(II) 2 members representing producers that are qualified handlers;*

*(III) 2 members representing importers that are qualified handlers; and*

*(IV) 1 member representing traditional retailers.*

*(iii) SUBSEQUENT MEMBERSHIP.—After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole.*

*(iv) TERMS.—Each initial appointment to the executive committee shall be for a term of 2 years. After the initial appointments, each appointment to the executive committee shall be for a term of 1 year.*

*(B) AUTHORITY.—The PromoFlor Council may delegate to the executive committee the authority of the PromoFlor Council under the order to hire and manage staff and conduct the routine business of the PromoFlor Council consistent with such policies as are determined by the PromoFlor Council.*

*(c) GENERAL RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—The order shall define the general responsibilities of the PromoFlor Council, which shall include the responsibility to—*

*(1) administer the order in accordance with the terms and provisions of the order;*

*(2) make rules and regulations to effectuate the terms and provisions of the order;*

*(3) appoint members of the PromoFlor Council to serve on an executive committee;*

*(4) employ such persons as the PromoFlor Council determines are necessary, and set the compensation and define the duties of the persons;*

*(5)(A) develop budgets for the implementation of the order and submit the budgets to the Secretary for approval under subsection (d); and*

*(B) propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval under subsection (d) plans and projects for cut flowers or cut greens promotion, consumer information, or related research;*

*(6)(A) implement plans and projects for cut flowers or cut greens promotion, consumer information, or related research, as provided in subsection (d); or*

*(B) contract or enter into agreements with appropriate persons to implement the plans and projects, as provided in subsection (e), and pay the costs of the implementation, or contracts and agreements, with funds received under the order;*

*(7) evaluate on-going and completed plans and projects for cut flowers or cut greens promotion, consumer information, or related research;*

*(8) receive, investigate, and report to the Secretary complaints of violations of the order;*

*(9) recommend to the Secretary amendments to the order;*

*(10) invest, pending disbursement under a plan or project, funds collected through assessments authorized under this Act only in—*

*(A) obligations of the United States or any agency of the United States;*

*(B) general obligations of any State or any political subdivision of a State;*

*(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or*

*(D) obligations fully guaranteed as to principal and interest by the United States,*

*except that income from any such invested funds may be used only for a purpose for which the invested funds may be used; and*

*(11) provide the Secretary such information as the Secretary may require.*

*(d) BUDGETS; PLANS AND PROJECTS.—*

*(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to submit to the Secretary for approval budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Council in the implementation of the order, including the projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.*

*(2) PLANS AND PROJECTS.—*

*(A) PROMOTION AND CONSUMER INFORMATION.—The order shall provide—*

*(i) for the establishment, implementation, administration, and evaluation of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens, and for the disbursement of necessary funds for the purposes described in this clause;*

*(ii) that any plan or project referred to in clause (i) shall be directed toward increasing the general demand for cut flowers or cut greens and may not make reference to a private brand or trade name, point of origin, or source of supply, except that this clause shall not preclude the PromoFlor Council from offering the plans and projects of the Council for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary; and*

*(iii) that no plan or project may make use of unfair or deceptive acts or practices with respect to quality or value.*

*(B) RESEARCH.—The order shall provide for—*

*(i) the establishment, implementation, administration, and evaluation of plans and projects for—*

*(I) market development research;*

*(II) research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens; and*

*(III) other research with respect to cut flowers or cut greens marketing, promotion, or consumer information;*

*(ii) the dissemination of the information acquired through the plans and projects; and*

*(iii) the disbursement of such funds as are necessary to carry out this subparagraph.*

*(C) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval a proposed plan or project for cut flowers or cut greens promotion, consumer information, or related research, as described in subparagraphs (A) and (B).*

*(3) APPROVAL BY SECRETARY.—A budget, or plan or project for cut flowers or cut greens promotion, consumer information, or related research may not be implemented prior to approval of the budget, plan, or project by the Secretary.*

*(e) CONTRACTS AND AGREEMENTS.—*

*(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—*

*(A) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the PromoFlor Council, with the approval of the Secretary, may enter into a contract or an agreement for the implementation of a plan or project for promotion, consumer information, or related research with respect to cut flowers or cut greens, and for the payment of the cost of the contract or agreement with funds received by the PromoFlor Council under the order.*

*(B) REQUIREMENTS.—The order shall provide that any contract or agreement entered into under this paragraph shall provide that—*

*(i) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project, together with a budget that includes the estimated costs to be incurred for the plan or project;*

*(ii) the plan or project shall become effective on the approval of the Secretary; and*

*(iii) the contracting or agreeing party shall—*

*(I) keep accurate records of all of the transactions of the party;*

*(II) account for funds received and expended;*

*(III) make periodic reports to the PromoFlor Council of activities conducted; and*

*(IV) make such other reports as the PromoFlor Council or the Secretary may require.*

*(2) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council may enter into a contract or agreement for administrative services. Any contract or agreement entered into under this paragraph shall include provisions comparable to the provisions described in paragraph (1)(B).*

*(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—*

*(1) IN GENERAL.—The order shall require the PromoFlor Council to—*

*(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;*

*(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may require; and*

*(C) account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.*

*(2) AUDITS.—The PromoFlor Council shall cause the books and records of the Council to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.*

*(g) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that the PromoFlor Council shall, as soon as practicable after the order becomes effective and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the PromoFlor Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order, and conduct, supervise, and evaluate plans and projects under the order.*

*(h) ASSESSMENTS.—*

*(1) AUTHORITY.—*

*(A) IN GENERAL.—The order shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner provided in the order, an assessment on each sale of cut flowers or cut greens to a retailer or an exempt handler (including each transaction described in subparagraph (C)(ii)), except to the extent that the sale is excluded from assessments under section 6(a).*

*(B) PUBLISHED LISTS.—To facilitate the payment of assessments under this paragraph, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.*

*(C) MAKING DETERMINATIONS.—*

*(i) QUALIFIED HANDLER STATUS.—The order shall contain provisions regarding the determination of the status of a person as a qualified handler or exempt handler that include the rules and requirements specified in sections 3(4) and 6(b).*

*(ii) CERTAIN COVERED TRANSACTIONS.—*

*(I) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center (as described in section 3(4)(A)(ii)(II)), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or a producer (as described in section 3(4)(A)(iii)), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.*

*(II) AMOUNT OF SALE IN THE CASE OF NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (IV), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center, or a direct sale to a consumer by an importer, the amount of the sale shall be equal to the sum of—*

*(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and*

*(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by the order to represent the mark-up of a wholesale handler on a sale to a retailer.*

*(III) DIRECT SALES BY PRODUCERS.—Subject to subclause (IV), in the case of a direct sale to a consumer by a producer, the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by the order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.*

*(IV) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (II) or (III) may become effective after—*

*(aa) recommendation by the PromoFlor Council; and*

*(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.*

*(2) ASSESSMENT RATES.—With respect to assessment rates, the order shall contain the following terms:*

*(A) INITIAL RATE.—During the first 3 years the order is in effect, the rate of assessment on each sale or transfer of cut flowers or cut greens shall be ½ of 1 percent of—*

*(i) the gross sales price of the cut flowers or cut greens sold; or*

*(ii) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii).*

*(B) CHANGES IN THE RATE.—*

*(i) IN GENERAL.—After the first 3 years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—*

*(I) the gross sales price of a product sold; or*

*(II) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii),*

*except that the assessment rate may in no case exceed 1 percent of the gross sales price or 1 percent of the transaction amount.*

*(ii) REQUIREMENTS.—Any change in the rate of assessment under this subparagraph—*

*(I) may be made only if adopted by the PromoFlor Council by at least a ⅔ majority vote and approved by the Secretary as necessary to achieve the objectives of this Act (after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title);*

*(II) shall be announced by the PromoFlor Council not less than 30 days prior to going into effect; and*

*(III) shall not be subject to a vote in a referendum conducted under section 7.*

*(3) TIMING OF SUBMITTING ASSESSMENTS.—The order shall provide that each person required to pay assessments under this subsection shall remit, to the PromoFlor Council, the assessment due from each sale by the person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days after the end of the month in which the sale took place) as is specified in the order.*

*(4) REFUNDS FROM ESCROW ACCOUNT.—*

*(A) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—*

*(i) establish an escrow account to be used for assessment refunds, as needed; and*

*(ii) place into the account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order becomes effective, as provided in section 4(b)(3)(B), and ending on the date the initial referendum on the order under section 7(a) is completed.*

*(B) RIGHT TO RECEIVE REFUND.—*

*(i) IN GENERAL.—The order shall provide that, subject to subparagraph (C) and the conditions specified in clause (ii), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in subparagraph (A)(ii), if—*

*(I) the qualified handler is required to pay the assessments;*

*(II) the qualified handler does not support the program established under this Act;*

*(III) the qualified handler demands the refund prior to the conduct of the referendum on the order under section 7(a); and*

*(IV) the order is not approved by qualified handlers in the referendum.*

*(ii) CONDITIONS.—The right of a qualified handler to receive a refund under clause (i) shall be subject to the following conditions:*

*(I) The demand shall be made in accordance with regulations, on a form, and within a time period specified by the PromoFlor Council.*

*(II) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which the refund is demanded.*

*(III) If the amount in the escrow account required under subparagraph (A) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 7(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand the refund.*

*(C) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum conducted under section 7(a), there shall be no refunds made, and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.*

*(5) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (less any refunds expended under the terms of the order required under paragraph (4)) shall be used for payment of costs incurred in implementing and administering the order, with provision for a reasonable reserve, and to cover the administrative costs incurred by the Secretary in implementing and administering this Act, except for the salaries of Federal Government employees incurred in conducting referenda.*

*(6) POSTPONEMENT OF COLLECTIONS.—*

*(A) AUTHORITY.—*

*(i) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of this Act, the PromoFlor Council may grant a postponement of the payment of an assessment under this subsection for any qualified handler that establishes that the handler is financially unable to make the payment.*

*(ii) REQUIREMENTS AND PROCEDURES.—A handler described in clause (i) shall establish that the handler is financially unable to make the payment in accordance with application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.*

*(B) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—The PromoFlor Council may grant a postponement under subparagraph (A) only if the handler demonstrates by the submission of an opinion of an independent certified public accountant, and by submission of other documentation required under the rules established under subparagraph (A)(ii), that the handler is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when otherwise due.*

*(C) PERIOD OF POSTPONEMENT.—*

*(i) IN GENERAL.—The time period of a postponement and the terms and conditions of the payment of each assessment that is postponed under this paragraph shall be established by the PromoFlor Council, in accordance with rules established under the procedures specified in subparagraph (A)(ii), so as to appropriately reflect the demonstrated needs of the qualified handler.*

*(ii) EXTENSIONS.—A postponement may be extended under rules established under the procedures specified in subparagraph (A)(ii) for the grant of initial postponements.*

*(i) PROHIBITION.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that the funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.*

*(j) BOOKS AND RECORDS; REPORTS.—*

*(1) IN GENERAL.—The order shall provide that each qualified handler shall maintain, and make available for inspection, such books and records as are required by the order and file reports at the time, in the manner, and having the content required by the order, to the end that such information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.*

*(2) CONFIDENTIALITY REQUIREMENT.—*

*(A) IN GENERAL.—Information obtained from books, records, or reports under paragraph (1) or subsection (h)(6), or from reports required under section 6(b)(3), shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council.*

*(B) SUITS AND HEARINGS.—Information described in subparagraph (A) may be disclosed to the public only—*

*(i) in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, involving the order; and*

*(ii) to the extent the Secretary considers the information relevant to the suit or hearing.*

*(C) GENERAL STATEMENTS AND PUBLICATIONS.—Nothing in this paragraph may be construed to prohibit—*

*(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or*

*(ii) the publication, by direction of the Secretary, of the name of any person who violates the order, together with a statement of the particular provisions of the order violated by the person.*

*(3) LISTS OF IMPORTERS.—*

*(A) REVIEW.—The order shall provide that the staff of the PromoFlor Council shall periodically review lists of importers of cut flowers and cut greens to determine whether persons on the lists are subject to the order.*

*(B) CUSTOMS SERVICE.—On the request of the PromoFlor Council, the Commissioner of the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.*

*(k) CONSULTATIONS WITH INDUSTRY EXPERTS.—*

*(1) IN GENERAL.—The order shall provide that the PromoFlor Council, from time to time, may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects.*

*(2) SPECIAL COMMITTEES.—*

*(A) IN GENERAL.—For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than PromoFlor Council members.*

*(B) CONSULTATION.—A committee appointed under subparagraph (A)—*

*(i) may not provide advice or recommendations to a representative of an agency, or an officer, of the Federal Government; and*

*(ii) shall consult directly with the PromoFlor Council.*

*(l) OTHER TERMS OF THE ORDER.—The order shall contain such other terms and provisions, consistent with this Act, as are necessary to carry out this Act (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) and for carrying out section 6).*

**SEC. 6. EXCLUSION; DETERMINATIONS.**

*(a) EXCLUSION.—An order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.*

*(b) MAKING DETERMINATIONS.—*

*(1) IN GENERAL.—For the purpose of applying the $750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler under section 3(4), or to a specific facility in order to determine the status of the facility as an eligible separate facility under section 7(b)(2), an order issued under this Act shall provide that—*

*(A) a determination of the annual sales volume of a person or facility shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year, except as provided in subparagraph (B); and*

*(B) in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor*

*Council, the determination may be made using an alternative time period or other alternative procedure specified in the order.*

*(2) RULE OF ATTRIBUTION.—*

*(A) IN GENERAL.—For the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—*

*(i) in the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;*

*(ii) in the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;*

*(iii) in the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and*

*(iv) in the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.*

*(B) STOCK AND OWNERSHIP INTEREST.—For the purpose of this paragraph, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.*

*(3) REPORTS.—For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.*

***SEC. 7. REFERENDA.***

*(a) REQUIREMENT FOR INITIAL REFERENDUM.—*

*(1) IN GENERAL.—Not later than 3 years after the issuance of an order under section 4(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether the order then in effect shall be continued.*

*(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).*

*(b) VOTES PERMITTED.—*

*(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).*

*(2) ELIGIBLE SEPARATE FACILITY.—For the purpose of paragraph (1):*

*(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of other facilities owned or operated by the qualified handler.*

*(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.*

*(C) ANNUAL SALES DETERMINED.—For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 3(4) shall apply.*

*(c) SUSPENSION OR TERMINATION REFERENDA.—If an order is approved in a referendum conducted under subsection (a), effective beginning on the date that is 3 years after the date of the approval, the Secretary—*

*(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order; and*

*(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order.*

*(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—*

*(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and*

*(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.*

*(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.*

***SEC. 8. PETITION AND REVIEW.***

*(a) PETITION AND HEARING.—*

*(1) PETITION.—A person subject to an order may file with the Secretary a petition—*

*(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and*

*(B) requesting a modification of the order or an exemption from the order.*

*(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 10(b)(2) and be held within the United States judicial district in which the residence or principal place of business of the person is located.*

*(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.*

*(b) REVIEW.—*

*(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed not later than 20 days after the date of the entry of the ruling by the Secretary.*

*(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.*

*(3) REMAND.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—*

*(A) to make such ruling as the court shall determine to be in accordance with law; or*

*(B) to take such further action as, in the opinion of the court, the law requires.*

*(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.*

***SEC. 9. ENFORCEMENT.***

*(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.*

*(b) REFERRAL TO ATTORNEY GENERAL.—A civil action brought under subsection (a) shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, or an order or regulation issued under this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.*

*(c) CIVIL PENALTIES AND ORDERS.—*

*(1) CIVIL PENALTIES.—*

*(A) IN GENERAL.—A person who violates a provision of this Act, or an order or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this Act, may be assessed by the Secretary—*

*(i) a civil penalty of not less than $500 nor more than $5,000 for each violation; and*

*(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.*

*(B) SEPARATE OFFENSES.—Each violation shall be a separate offense.*

*(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this Act, or an order or regulation issued under this Act.*

*(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 10(b)(2) and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.*

*(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).*

*(d) REVIEW BY DISTRICT COURT.—*

*(1) COMMENCEMENT OF ACTION.—*

*(A) IN GENERAL.—Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—*

*(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and*

*(ii) sending a copy of the notice by certified mail to the Secretary.*

*(B) COPY OF RECORD.—The Secretary shall promptly file in the court a certified copy of the*

*record on which the Secretary found that the person had committed a violation.*

*(2) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.*

*(e) FAILURE TO OBEY AN ORDER.—*

*(1) IN GENERAL.—A person who fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d).*

*(2) SEPARATE VIOLATIONS.—Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.*

*(f) FAILURE TO PAY A PENALTY.—*

*(1) IN GENERAL.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.*

*(2) SCOPE OF REVIEW.—In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.*

*(g) ADDITIONAL REMEDIES.—The remedies provided in this Act shall be in addition to, and not exclusive of, other remedies that may be available.*

***SEC. 10. INVESTIGATIONS AND POWER TO SUBPOENA.***

*(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this Act or any order or regulation issued under this Act.*

*(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—*

*(1) INVESTIGATIONS.—For the purpose of making an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.*

*(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or 9(c)(3), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.*

*(c) AID OF COURTS.—*

*(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).*

*(2) ORDER.—The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).*

*(3) FAILURE TO OBEY.—Any failure to obey the order of the court may be punished by the court as a contempt of court.*

*(4) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.*

***SEC. 11. CONFIDENTIALITY.***

*(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this Act shall be made public.*

*(b) PENALTY.—Any person who knowingly violates subsection (a) or the confidentiality terms of an order, as described in section 5(j)(2), shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.*

*(c) ADDITIONAL PROHIBITION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or an investigatory or enforcement action necessary for the implementation of this Act.*

*(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.*

***SEC. 12. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.***

*If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this Act specified in section 2(b), the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.*

***SEC. 13. CONSTRUCTION.***

*(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this Act.*

*(b) PRODUCER RIGHTS.—This Act—*

*(1) may not be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens; and*

*(2) shall be construed to treat all persons producing cut flowers and cut greens fairly and to implement any order in an equitable manner.*

*(c) OTHER PROGRAMS.—Nothing in this Act may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or a State.*

***SEC. 14. REGULATIONS.***

*The Secretary may issue such regulations as are necessary to carry out this Act and the powers vested in the Secretary by this Act, including regulations relating to the assessment of late payment charges and interest.*

***SEC. 15. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.*

*(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for the payment of the expenses or expenditures of the PromoFlor Council in administering a provision of an order.*

AMENDMENT NO. 1232

(Purpose: To reduce expenditure in the floral promotion order)

Mr. FORD. Mr. President, I send a technical amendment to the desk on behalf of Senator LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky, [Mr. FORD], for Mr. LEAHY, proposes an amendment numbered 1232.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 5, subsection (i), paragraph 5, delete all after the word "Act" through the word "referenda."

This amends the Committee Report bill at page 100, line 11, by deleting ", except for the salaries of Federal Government employees incurred in conducting referenda."

With this change even the incidental costs of USDA employees in conducting the marketing order referenda will be paid for by the marketing order.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1232) was agreed to.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed.

The committee amendment, as amended, was agreed to.

So the bill (S. 994), as amended, was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## HIGH RISK DRIVERS ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 326, S. 738, the High Risk Drivers Act of 1993; that the committee amendment be agreed to; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; and that any relevant statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 738) to promote the implementation of programs to improve the traffic safety performance of high risk drivers, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION. 1. SHORT TITLE.***

*This Act may be cited as the "High Risk Drivers Act of 1993".*

***SEC. 2. FINDINGS.***

*The Congress makes the following findings:*

*(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle*

*miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.*

*(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.*

*(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.*

*(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.*

*(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.*

*(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.*

*(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.*

***SEC. 3. DEFINITIONS.***

*In this Act, the following definitions apply:*

*(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.*

*(2) The term "Secretary" means the Secretary of Transportation.*

***SEC. 4. POLICY AND PROGRAM DIRECTION.***

*(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.*

*(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—*

*(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;*

*(2) model driver training, screening, licensing, control, and evaluation programs are improved;*

*(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and*

*(4) driver training programs and the delivery of such programs are advanced.*

*(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.*

***TITLE I—YOUNG DRIVER PROGRAMS***

***SEC. 101. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.***

*(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:*

***"§411. Programs for young drivers.***

*"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.*

*"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.*

*"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—*

*"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);*

*"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and*

*"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.*

*"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.*

*"(e) ELIGIBILITY FOR BASIC GRANTS.—*

*"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—*

*"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and*

*"(B)(i) in the first year of receiving grants under this section, meets four of the nine criteria specified in paragraph (3);*

*"(ii) in the second year of receiving such grants, meets five of such criteria;*

*"(iii) in the third year of receiving such grants, meets six of such criteria;*

*"(iv) in the fourth year of receiving such grants, meets seven of such criteria; and*

*"(v) in the fifth year of receiving such grants, meets seven of such criteria.*

*"(2) GRADUATED LICENSING PROGRAM.—(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:*

*"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.*

*"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.*

*"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.*

*"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—*

*"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;*

*"(ii) has not been assessed points against the license because of safety violations during such period; and*

*"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.*

*"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.*

*"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.*

*"(3) CRITERIA FOR BASIC GRANT.—The nine criteria referred to in paragraph (1)(B) are as follow:*

*"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.*

*"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under 21 years of age.*

*"(C) The State requires that all front seat and rear seat occupants of any motor vehicle shall use safety belts.*

*"(D) The State requires that the license of a driver under 21 years of age be suspended for a*

*period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.*

*"(E) The State conducts your-oriented traffic safety enforcement activities, and education and training programs—*

*"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and*

*"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.*

*"(F) The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.*

*"(G) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.*

*"(H) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.*

*"(I) The State has a law or regulation that —*

*"(i) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;*

*"(ii) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;*

*"(iii) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and*

*"(iv) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner, or owner.*

*"(f) SUPPLEMENTAL GRANT PROGRAM.—*

*"(1) EXTENDED APPLICATION OF PROVISIONAL LICENSE REQUIREMENT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).*

*"(2) PROVISIONS OF INSURANCE INFORMATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.*

*"(3) READILY DISTINGUISHABLE LICENSES FOR YOUNG DRIVERS—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—*

*"(A) requires that the provisional driver's license, or full driver's license, of any driver under 21 years of age be readily distinguishable from the licenses of drivers who are 21 years of age or older, through the use of special background, marking, profile, or any other features, consistent with any guidelines developed by the Secretary in cooperation with the American Association of Motor Vehicle Administrators; and*

*"(B) employs the Social Security number as a common identifier on every driver's license so as to facilitate the transfer of traffic records among States.*

*"(4) DRIVER TRAINING PREREQUISITE.—For purposes of this section, a State is eligible for a supplemental grant in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.*

*"(5) REMEDIAL DRIVER EDUCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.*

*"(6) PROVISIONAL LICENSE REQUIREMENT AFTER LICENSE SUSPENSION OR REVOCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any driver whose driving privilege is restored after license suspension or revocation resulting from a traffic safety violation shall for at least 1 year be subject to the following:*

*"(A) The restored license shall be immediately suspended, for a period to be determined by the Secretary, upon the driver's conviction of any moving traffic safety violation, except that the Secretary may by regulation define limited circumstances under the State may waive this immediate suspension requirement.*

*"(B) A full driver's license shall be issued only after the driver has held a provisional license for at least 1 year with a clean driving record, as described in subsection (e)(2)(B).*

*"(C) The driver shall be—*

*"(i) deemed to be driving while intoxicated if the driver has a blood alcohol concentration of .02 percent or greater; or*

*"(ii) prohibited from operating a motor vehicle with such a blood alcohol concentration.*

*"(7) RECORD OF SERIOUS CONVICTIONS; HABITUAL OR REPEAT OFFENDER SANCTIONS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—*

*"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least 10 years after the date of the conviction; and*

*"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.*

*"(8) OVERSIGHT OF ALCOHOL SALES TO UNDERAGE DRINKERS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount appropriated to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State exercises effective oversight of colleges and universities to ensure that colleges and universities do not provide, and do not allow the selling of, alcohol to individuals under 21 years of age.*

*"(g) APPLICABILITY OF CHAPTER 1.—*

*"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.*

*"(2) INCONSISTENT PROVISION.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.*

*"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for*

*carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.*

*"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.*

*"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.*

*"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $18,000,000 for each of the fiscal years ending September 30, 1994, and September 30, 1995, $20,000,000 for the fiscal year ending September 30, 1996, and $22,000,000 for each of the fiscal years ending September 30, 1997, and September 30, 1998.".*

*(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:*

*"411. Programs for young drivers.".*

*(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.*

***SEC. 102. PROGRAM EVALUATION.***

*(a) EVALUATION BY SECRETARY.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).*

*(b) REPORT TO CONGRESS.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (2) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.*

## *TITLE II—OLDER DRIVER PROGRAMS*

***SEC. 201. OLDER DRIVER SAFETY RESEARCH.***

*(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration Entitled "Addressing the Safety Issues Related to Younger and Older Drivers".*

*(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.*

*(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.*

*(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.*

*(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.*

*(3) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.*

*(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.*

*(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.*

*(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.*

*(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 2000, and $1,500,000 is authorized for each of the fiscal years 2001 through 2005, to support older driver programs described in subsections (a), (b), (c), (e), and (f).*

## *TITLE III—HIGH RISK DRIVERS*

***SEC. 301. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.***

*(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.*

*(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—*

*(1) whether specific legislative action is necessary to improve State traffic record systems;*

*(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;*

*(3) the need for a uniform driver violation point system to be adopted by the States;*

*(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;*

*(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and*

*(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.*

*(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and Driver License*

*Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.*

***SEC. 302. STATE PROGRAMS FOR HIGH RISK DRIVERS.***

*The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.*

So the bill (S. 738), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THE HIGH RISK DRIVERS ACT OF 1993

Mr. DANFORTH. Mr. President, I urge the Senate to pass the High Risk Drivers Act of 1993. I introduced this legislation with Senators EXON, LAUTENBERG, and MIKULSKI to reduce the disproportionate number of highway crashes involving younger drivers, older drivers and drivers with bad driving records.

Motor vehicle crashes exact a high cost on our country. Last October, the National Highway Traffic Safety Administration estimated that the costs of society from all U.S. motor vehicle crashes and injuries that occurred in 1990 were $137.5 billion. The estimate reflects the economic loss of crashes, including lost productivity, property damage, and health care costs. We must recognize, however, that the cost estimate fails to reflect the more devastating costs associated with crashes, the emotional costs of injuries and lost lives. If the current trends continue, over the next 10 years, an estimated 400,000 people will be killed and over 5 million will be hospitalized as a result of highway crashes. We can prevent a substantial portion of the loss by reducing the number of crashes experienced by high risk drivers.

In 1991, drivers under the age of 21 experienced the highest crash involvement rate per licensed driver. Nationally, although only 7.4 percent of licensed drivers are between the ages of 16 and 20, they account for 15.4 percent of all driver fatalities. A similar trend exists in my home State of Missouri. In Missouri drivers under the age of 21 account for 7.7 percent of licensed drivers, yet in 1991, they were involved in 29.5 percent of all traffic accidents and 26.4 percent of fatal accidents. In 1991, a total of 277 Missourians were killed and 21,171 injured in accidents involving young drivers. That translates to a young driver death or injury accident every 24.5 minutes.

This legislation is designed as a means of enhancing highway safety by first focusing on young drivers. It would accomplish this goal by establishing an incentive grant program. The grant program would in turn encourage States to institute and maintain programs to combat the causes of young driver crashes. The incentive grant program would be funded at a level of $100 million over 5 years. To qualify for grant funding, a State must comply both with a graduated licensing requirement and a specified number of grant criteria. States would have an opportunity to obtain additional funding by complying with supplemental criteria aimed at lowering the risk to high risk drivers.

More specifically, the graduated licensing requirements would compel drivers under 21 years of age to comply with a series of requirements before obtaining a full driver's license. During the elongated licensing process, the potential licensee would be subject to stricter driver control actions than a person holding a full license and would have to maintain a clean driving record before obtaining a full driving license. In addition to implementing a graduated license program, States would also have to comply with a number of grant criteria. The grant criteria include the following: a .02 percent blood alcohol content [BAC] maximum for minors; an open container prohibition; a minimum $500 penalty for selling alcohol to a minor; mandated belt use for front and rear passengers; a minimum six month license suspension for any minor convicted of an alcohol-related offense; a youth-oriented traffic safety enforcement, education, and training program for State officials and young drivers; substantial compliance with the drivers license compact to ensure the efficient interstate transfer of driver records; and a minimum $100 penalty for driving through a railroad crossing while the gate is closed or being opened or closed.

As a group, older drivers are also disproportionately involved in fatal accidents. According to a 1993 study, drivers 75 years and older were involved in 11.5 fatal crashes per 100 million miles driven, as compared to 2 fatal crashes per 100 million miles for drivers aged 35 to 59. It is estimated that by 2030, those 65 and older will represent 22 percent of the population. In light of the aging American population and the higher propensity of accidents, the concerns of older drivers need to be addressed.

This bill directs the Department of Transportation [DOT] to support a program of research, technical assistance, evaluation, and other appropriate activities designed to reduce the hazards involved with older drivers. The legislation ensures that there will be continued and dependable funding for the support of older driver programs. Specifically, the Secretary is directed to conduct research in areas including: identification of the factors that predict the ability of older drivers; proper training of examiners; development of counseling programs; promotion of alternative transportation; promotion of voluntary actions on the part of the older driver; development of means to encourage restricted license use as a way to preserve older driver mobility; and technology development to benefit older drivers.

Finally, the High Risk Drivers Act addresses a third problem. It focuses on other high risk drivers who are disproportionately represented in the crash rates. Drivers with repeated traffic violations and/or crashes in a given period are several times more likely than the general population of drivers to have subsequent accidents. Repeat drunk driving offenders are over-represented in crashes. 1992 figures supplied by Mothers Against Drunk Drivers [MADD] estimate that 17,699 people were killed in the United States in alcohol-related traffic accidents and 1.2 million suffered injuries in crashes where police or medical personnel reported a presence of alcohol. The dangers related to these high risk drivers must also be addressed.

In order to focus on drivers with repeated traffic violations, the bill mandates that within 1 year after enactment, the Secretary must conduct a study to determine whether additional federal activities are needed to improve driving records and control systems to identify high risk drivers more rapidly and ensure prompt intervention. The DOT would also work to encourage programs for high risk drivers on the State level.

Finally, the bill includes a provision aimed at toughening the stance against repeat drunk driving offenders. Mere removal of a drunk driver's license is insufficient because more than half of those whose licenses are suspended continue to drive and many of them drive drunk. To combat this problem a basic grant criterion was added to the grant program directed at young driver issues. The new basic criterion would be met if a state established a program for the seizure and forfeiture of automobiles from repeat drunk driving offenders and persons convicted of driving on a license which had been suspended for drunk driving. A similar forfeiture program in Portland, Oregon resulted in a 38 percent decrease in the number of fatal accidents involving alcohol and a 12 percent drop in the number of arrests for driving under the influence. It is our hope that this legislation would produce similar national results.

Mr. President, the High Risk Drivers Act of 1993 has the support of the American Association of Retired Persons, Mothers Against Drunk Driving, the American Insurance Association, and a number of Senators who have led the fight for transportation safety. Senator LAUTENBERG was the lead sponsor of legislation establishing a national uniform minimum drinking age of 21. Senators EXON and MIKULSKI

have been strong supporters of transportation safety legislation, including the law requiring drug and alcohol testing of airline and rail crews and commercial drivers. With their support and the support of our colleagues, we can reduce these unnecessary motor vehicle accidents on our highways.

## LOWER MISSISSIPPI DELTA INITIATIVES ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 307, S. 991, a bill to direct the Secretary of Energy to undertake initiatives to address certain needs in the lower Mississippi Delta; that the committee substitute amendment be agreed to; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so orded.

The Senate considered the bill (S. 991) to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the lower Mississippi Delta region, and for other purposes, which had been report from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

*That this Act may be referred to as the "Lower Mississippi Delta Initiatives Act of 1993".*

*SEC 2. TABLE OF CONTENTS.—*

*Sec. 1. Short Title.*
*Sec. 2. Table of Contents.*
*Sec. 3. Findings.*
*Sec. 4. Definitions.*

*TITLE I—INITIATIVES WITHIN THE DEPARTMENT OF THE INTERIOR*

*Sec. 101. Definitions.*
*Sec. 102. Natural Resources and Environmental Educational Initiatives.*
*Sec. 103. Lower Mississippi Delta Region Heritage Study.*
*Sec. 104. Delta Region Heritage Corridors and Heritage and Cultural Centers.*
*Sec. 105. Historic and Prehistoric Structures and Sites Survey.*
*Sec. 106. Delta Antiquities Survey.*
*Sec. 107. Historic and Archaeological Resources Program.*
*Sec. 108. Authorization of Appropriations.*

*TITLE II—INITIATIVES WITHIN THE DEPARTMENT OF ENERGY*

*Sec. 201. Definitions.*
*Sec. 202. Delta Energy Technology and Business Development Center.*
*Sec. 203. Institutional Conservation Program for the Delta Region.*
*Sec. 204. Energy Related Educational Initiatives.*
*Sec. 205. Integrated Biomass Energy Systems.*
*Sec. 206. Weatherization Assistance Program for the Delta Region.*
*Sec. 207. Renewable Energy Production Incentives.*

*SEC. 3. FINDINGS.—(a) The Congress finds that—*

*(1) in 1988, Congress enacted Public Law 100-460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;*

*(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;*

*(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities in the areas of mathematics and science and technology transfer for Delta residents;*

*(4) the Delta Initiatives Report recommended:*

*(A) the implementation of pre-college education programs in mathematics and science as well as other initiatives to enhance the educational and technical capabilities of the Delta Region's workforce;*

*(B) that States and local school systems seek ways to expand the pool of qualified educators in mathematics and sciences;*

*(C) that institutions of higher education in the Delta Region work with local school districts to promote mathematics and science education;*

*(D) that Federal grant-making agencies target more research and development monies in selected areas to institutions of higher education in the Delta Region, including Historically Black Colleges and Universities;*

*(E) that institutions of higher education establish a regional consortium to provide technical assistance and training to increase international trade between businesses in the Delta Region and foreign countries;*

*(F) designating the Great River Road as a scenic byway, and designating other hiking and motorized trails throughout the Delta Region;*

*(G) that the Federal Government identify sites and structures of historic and prehistoric importance throughout the Delta Region;*

*(H) the further study of potential new units of the National Park System within the Delta Region;*

*(I) that the Federal Government should create economic incentives to encourage the location of value-added facilities for processing agricultural products within the Delta Region; and*

*(J) that Congress provide practical incentives to encourage the construction of alternative fuel production facilities in the Delta Region.*

*SEC. 4. DEFINITIONS.—As used in this Act, the term—*

*(1) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100-460;*

*(2) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential";*

*(3) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this Act;*

*(4) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and*

*(5) "minority college or university" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)).*

*TITLE I—INITIATIVES WITHIN THE DEPARTMENT OF THE INTERIOR*

*SEC. 101. DEFINITIONS. As used in this title, the term—*

*(1) "Department" means the United States Department of the Interior, unless otherwise specifically stated; and*

*(2) "Secretary" means the Secretary of the Interior, unless otherwise specifically stated.*

*SEC. 102. NATURAL RESOURCES AND ENVIRONMENTAL EDUCATIONAL INITIATIVES.—(a) OFFICE OF EDUCATION.—(1) There shall be established within the Department an Office of Education to encourage, support, and coordinate education programs of the Department at the elementary, secondary, college and university, and graduate levels.*

*(2) The goals of the Office of Education shall be to:*

*(A) enhance the quality of education in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects;*

*(B) establish initiatives at minority colleges or universities;*

*(C) encourage the consideration of careers in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects;*

*(D) enhance teacher development and recruitment;*

*(E) increase research opportunities for teachers and students;*

*(F) enhance curriculum development; and*

*(G) improve laboratory instrumentation and equipment through purchase, loan, or other transfer mechanisms.*

*(b) DUTIES.—The duties of the Secretary, through the Office of Education, shall be to:*

*(1) coordinate the educational programs within the Department, including implementation of programs established under this title, in order to ensure the goals of the Office of Education are met; and*

*(2) inventory existing education programs within the Department.*

*(c) The Secretary shall report to Congress, within one year after the date of the enactment of this Act and annually thereafter, on an inventory of existing education programs of the Department, the status of such programs, and progress toward meeting the goals of the Office of Education as established in this Act.*

*(d) MINORITY COLLEGE AND UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary, through the Office of Education shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges or universities to participate in programs and activities carried out by the Department. The Secretary, through the Office of Education, shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—*

*(A) describe ongoing education and training programs carried out by the Department with respect to, or in conjunction with, minority colleges or universities in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subject;*

*(B) describe ongoing research, development or demonstration programs involving the Department and minority colleges or universities;*

*(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);*

*(D) include specific proposals and recommendations for providing assistance to minority colleges and universities to enter into memoranda of understanding and other appropriate forms of agreement with the Department in order to plan and develop programs to foster greater involvement of these schools in the contract, research, education, training, and recruitment activities of the Department;*

*(E) address the need for, and potential role of, the Department in providing minority colleges or universities with the following:*

*(i) increased research opportunities for faculty and students;*

*(ii) assistance in faculty development and recruitment;*

*(iii) curriculum enhancement and development; and*

*(iv) improved laboratory instrumentation and equipment, through purchase, loan, or other transfer mechanisms;*

*(F) address the need for, and potential role of, the Department in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges or universities; and*

*(G) include specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department in order to assist minority colleges or universities in providing education and training in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects.*

*(2) The Secretary, through the Office of Education, shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges or universities directed at jointly planning and developing programs to foster greater involvement of minority colleges or universities in the research, education, training, and recruitment activities of the Department.*

*(e) SCHOLARSHIP PROGRAM.—The Secretary, through the Office of Education, shall establish a scholarship program for students pursuing undergraduate or graduate degrees in natural resource and environmental related fields including, but not limited to: biology, wildlife biology, forestry, botany, horticulture, historic preservation, cultural resource management, archeology, anthropology, aquaculture, geology, engineering, the environment, the sciences, and ecology at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance; and (2) academic potential in the particular area of study.*

*(f) PRE-COLLEGE EDUCATION.—The Secretary, through the Office of Education, shall undertake activities to encourage pre-college education programs in subjects relating to natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects, for students in the Delta Region. Such activities shall include, but not be limited to, the following:*

*(1) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students;*

*(2) cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs for elementary, middle, and secondary school students;*

*(3) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region in the development and use of curriculum and educational materials; and*

*(4) the establishment of education programs for elementary, middle, and secondary school teachers in the Delta Region at research facilities of the Department.*

*(g) VOLUNTEER PROGRAM.—The Secretary, through the Office of Education, shall establish and carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in educational enrichment programs relating to natural resources, the environment, the sciences, cultural resource management, historic preservation, archeology, aquaculture, and related subjects, in cooperation with State departments of education and local school districts in the Delta Region.*

*(h) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary, through the Office of Education, shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.*

*(i) CENTER FOR ACQUACULTURE STUDIES.—The Secretary, through the Office of Education, shall establish a Center for Aquaculture Studies at the University of Arkansas at Pine Bluff, Arkansas, in cooperation with Southern University in Baton Rouge, Louisiana, and Alcorn State in Lorman, Mississippi, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the field of aquaculture. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and Alcorn State in Lorman, Mississippi, and other minority colleges or universities in the Delta region to carry out affiliated programs and coordinate program activities at such colleges or universities.*

*(j) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary, through the Office of Education, shall ensure that the programs authorized in this section are coordinated with, and complimentary to, educational assistance programs administered by other Federal agencies. These agencies include, but are not limited to, the Department of Energy, the Department of Agriculture, the Department of Education, the Department of Defense, the National Science Foundation, and the National Aeronautics and Space Administration.*

*SEC. 103. LOWER MISSISSIPPI DELTA REGION HERITAGE STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Lower Mississippi Delta Development Center, and other appropriate Delta Region institutions, is directed to prepare and transmit to the Congress within three years after the date of the enactment of this Act, a study of significant natural, recreational, historical or prehistorical, and cultural lands, waters, sites, and structures located within the Delta Region. This study shall take into consideration the research and inventory of resources conducted by the Mississippi River Heritage Corridor Study Commission.*

*(b) TRANSPORTATION ROUTES.—(1) The study shall include recommendations on appropriate designation and interpretation of historically significant roads, trails, byways, waterways, or other routes within the Delta Region.*

*(2) In order to provide for public appreciation, education, understanding, interpretation, and enjoyment of the significant sites identified pursuant to subsection (a), which are accessible by public roads, the Secretary shall recommend in the study vehicular tour routes along existing public roads linking such sites within the Delta Region.*

*(3) Such recommendations shall include an analysis of designating the Great River Road (as depicted on the map entitled "Proposed Delta Transportation Network" on pages 102–103 of the Delta Initiatives Report) and other sections of the Great River Road between Baton Rouge and New Orleans, Louisiana and an analysis of designating that portion of the Old Antonio Road and the Louisiana Natchez Trace which extends generally along Highway 84 from Vidalia, Louisiana, to Clarence, Louisiana, and Louisiana Highway 6 from Clarence, Louisiana, to the Toledo Bend Reservoir, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.*

*(4) The Secretary shall also recommend in the study an appropriate route along existing public roads to commemorate the importance of timber production and trade to the economic development of the Delta Region in the early twentieth century, and to highlight the continuing importance of timber production and trade to the economic life of the Delta Region. Recommendations shall include an analysis of designating that portion of US 165 which extends from Alexandria, Louisiana, to Monroe, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.*

*(5) The study shall also include a comprehensive recreation, interpretative, and visitor use plan for the routes described in the above paragraphs, including bicycle and hiking paths, and makes specific recommendations for the acquisition and construction of related interpretive and visitor information facilities at selected sites along such routes.*

*(6) The Secretary is authorized to make grants to States for work necessary to stabilize, maintain, and widen public roads to allow for adequate access to the nationally significant sites and structures identified by the study, to allow for proper use of the vehicular tour route, trails, byways, including the routes defined in paragraphs (3) and (4) or other public roads within the Delta Region and to implement the comprehensive recreation, interpretive, and visitor use plan required in paragraph (5).*

*(c) LISTING.—On the basis of the study, and in consultation with the National Trust for Historic Preservation, the Secretary shall inventory significant structures and sites in the Delta Region. The Secretary shall further recommend and encourage cooperative preservation and economic development efforts such as the establishment of preservation districts linking groups of contiguous counties or parishes, especially those that lie along the aforementioned designated routes. The Secretary shall prepare a list of the sites and structures for possible inclusion by the National Park Service as National Historic Landmarks or such other designation as the Secretary deems appropriate.*

*SEC. 104. DELTA REGION HERITAGE CORRIDORS AND HERITAGE AND CULTURAL CENTERS.—(a) FINDINGS. The Congress finds that—*

*(1) in 1990, the Congress authorized the Institute of Museum Services to prepare a report assessing the needs of small, emerging, minority,*

*and rural museums in order to identify the resources such museums needed to meet their educational mission, to identify the areas of museum operation in which the needs were greatest, and to make recommendations on how these needs could best be met;*

*(2) the Institute of Museum Services undertook a comprehensive eighteen month study of such needs with the assistance of two advisory groups, surveyed 524 museums from throughout the Nation, held discussion groups in which representatives of 25 museum groups participated, and conducted case studies of 12 museum facilities around the Nation;*

*(3) on the basis of this assessment, the Institute of Museum Services issued a report in September, 1992, entitled, "National Needs Assessment of Small, Emerging, Minority and Rural Museums in the United States" (hereinafter "National Needs Assessment") which found that small, emerging, minority, and rural museums provide valuable educational and cultural resources for their communities and contain a reservoir of the Nation's material, cultural and scientific heritage, but due to inadequate resources are unable to meet their full potential or the demands of the surrounding communities;*

*(4) the needs of these institutions are not being met through existing Federal programs;*

*(5) fewer than half of the participants in the survey had applied for Federal assistance in the past two years and that many small, emerging, minority and rural museums believe existing Federal programs do not meet their needs;*

*(6) based on the National Needs Assessment, that funding agencies should increase support available to small, emerging, minority, and rural museums and make specific recommendations for increasing technical assistance in order to identify such institutions and provide assistance to facilitate their participation in Federal programs;*

*(7) the Delta initiatives Report made specific recommendations for the creation and development of centers for the preservation of the cultural, historical, scientific and literary heritage of the Delta Region, including recommendations for the establishment of a Delta Region Native American Heritage and Cultural Center and a Delta Region African American Heritage and Cultural Center with additional satellite centers or museums linked throughout the Delta Region;*

*(8) the Delta Initiatives Report stated that new ways of coordinating, preserving, and promoting the Delta Region's literature, art, and music should be established including the creation of a network to promote the Delta Region's literary, artistic, and musical heritage; and*

*(9) wholesale destruction and attrition of archeological sites and structures has eliminated a significant portion of Native American heritage as well as the interpretive potential of the Delta Region's parks and museums. Furthermore, site and structure destruction is so severe that an ambitious program of site and structure acquisition in the Delta Region is necessary.*

*(b) GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Smithsonian Institution, the Lower Mississippi Delta Development Center, Historically Black Colleges and Universities, other Delta Regional educational institutions, and appropriate African American and Native American organizations in the Delta Region, is further directed to prepare and transmit to the Congress a plan outlining specific recommendations for necessary funding, for the establishment of a Delta Region Native American Heritage Corridor and Heritage and Cultural Center and a Delta Region African American Heritage Corridor and Heritage and Cultural Center with a network of satellite or cooperative units.*

*(c) DELTA REGION NATIVE AMERICAN HERITAGE CORRIDOR AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a network of parks, museums, and other centers to interpret Native American culture and heritage in the Delta Region, including a ten year development strategy for such a network.*

*(2) Such plan shall include specific proposals for the development of a Native American Heritage Corridor and Heritage and Cultural Center in the Delta Region, along with recommendations for the appropriate Federal role in such a center including matching grants, technical and interpretive assistance.*

*(3) Such plan shall be conducted in consultation with tribal leaders in the Delta Region.*

*(4) Such plan shall also include specific proposals for educational and training assistance for Delta Regional Native Americans to carry out the recommendations provided in the study.*

*(d) DELTA REGION AFRICAN AMERICAN HERITAGE CORRIDOR AND HERITAGE AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a heritage corridor or trail system, consisting of one or two major north-south routes and several east-west-spur loops to preserve, interpret and commemorate the African American heritage and culture in the Delta Region during all significant historical periods.*

*(2) Such plan shall make specific recommendations for representing all forms of expressive culture including the musical, folklore, literary, artistic, scientific, historical, educational, and political contributions and accomplishments of African Americans in the Delta Region.*

*(3) Such plan shall make specific recommendations for implementing the findings of the Delta Initiative Report with respect to establishing an African American Heritage Corridor and Heritage and Cultural Center and related satellite museums in the Delta Region, together with specific funding levels necessary to carry out these recommendations and shall also include recommendations for improving access of small, emerging, minority or rural museums to technical and financial assistance.*

*(4) Such plan shall be conducted in consultation with institutions of higher education in the Delta Region with expertise in African American studies, Southern studies, archeology, anthropology, history and other relevant fields.*

*(5) Such plan shall make specific recommendations for improving educational programs offered by existing cultural facilities and museums as well as establishing new outreach programs for elementary, middle and secondary schools, including summer programs for youth in the Delta Region.*

*(e)(1) In furtherance of the purposes of this section, the Secretary is authorized to make planning grants to State Humanities Councils in the Delta Region to assist small, emerging, minority and rural museums selected on a financial needs basis in the development of a comprehensive long term plan for these institutions. The Secretary is also authorized to make implementation grants to State Humanities Councils in the Delta Region who, in consultations with State Museum Associations, shall make grants to small, emerging, minority or rural museums for the purpose of carrying out an approved plan for training personnel, improving exhibits or other steps necessary to assure the integrity of collections in their facilities, for educational outreach programs, or for other activities the Secretary deems appropriate including the promotion of tourism in the region. Such institutions shall be selected competitively and on the basis of demonstrated financial need. The Secretary is also authorized to make grants to State Humanities Councils to update, simplify and coordinate the respective State Works Progress Administration guides and to develop a single comprehensive guide for the Delta Region.*

*(2) The Secretary is authorized to provide grants and other appropriate technical assistance to State Humanities Councils, State Museum Associations, and State Arts Councils in the Delta Region for the purpose of assessing the needs of such institutions. Such grants may be used by these institutions to undertake such an assessment and to provide other technical, administrative and planning assistance to small, emerging, minority or rural institutions seeking to preserve the Delta Region's literary, artistic, and musical heritage.*

*(f) MUSIC HERITAGE PROGRAM.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a Music Heritage Program, with specific emphasis on the Mississippi Delta Blues. The plan shall include specific recommendations for developing a network of heritage sites, structures, small museums, and festivals in the Delta Region.*

*(2) The plan shall include an economic strategy of the promotion of the Delta Region's music, through the participation of musicians, festival developers, museum operators, universities, and other relevant individuals and organizations.*

*(g) COMPLETION DATE.—The plan authorized in this section shall be completed not later than three years after the date funds are made available for such plan.*

*SEC. 105. HISTORIC AND PREHISTORIC STRUCTURES AND SITES SURVEY.—(a) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to historically Black Colleges and Universities to undertake a comprehensive survey of historic and prehistoric structures and sites located on their campuses, including recommendations as to the inclusion of appropriate structures and sites on the National Register of Historic Places, designation as National Historic Landmarks, or other appropriate designation as determined by the Secretary. The Secretary shall also make specific proposals and recommendations, together with estimates of necessary funding levels, for a Comprehensive Plan to be carried out by the Department to assist Historically Black Colleges and Universities in the preservation and interpretation of such sites and structures.*

*(b) GRANTS.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities for stabilization, preservation and interpretation of such sites and structures.*

*SEC. 106. DELTA ANTIQUITIES SURVEY.—(a) GENERAL.—(1) The Secretary is directed to prepare and transmit to the Congress, in cooperation with the States of the Delta Region, State Archaeological Surveys and Regional Archaeological Centers, a study of the feasibility of establishing a Delta Antiquities Trail or Delta Antiquities Heritage Corridor in the Delta Region.*

*(2) Such study shall, to the extent practicable, use non-intrusive methods of identifying, surveying, inventorying, and stabilizing ancient archaeological sites and structures.*

*(3) In undertaking this study, the Secretary is directed to enter into cooperative agreements with the States of the Delta Region, the State Archeological Surveys, and Regional Archeological Centers located in Delta Region institutions of higher education for on-site activities including surveys, inventories, and stabilization and other activities which the Secretary deems appropriate.*

*(4) In addition to the over 100 known ancient archeological sites located in the Delta Region including Watson's Brake, Frenchman's Bend,*

*Hedgepeth, Monte Sano, Banana Bayou, Hornsby, Parkin, Toltec, Menard-Hodges, Eaker, Blytheville Mound, Nodena, Taylor Mounds, DeSoto Mound and others, such study shall also employ every practical means possible, including assistance from the National Aeronautics and Space Administration, the Forest Service and Soil Conservation Service of the Department of Agriculture, the Army Corps of Engineers of the Department of Defense, and other appropriate Federal agencies, to locate and confirm the existence of a site known as Balbansha in southern Louisiana and a site known as Autiamque in Arkansas. The heads of these Federal agencies shall cooperate with the Secretary as the Secretary requires on a non-reimbursable basis.*

*(b) In furtherance of the purposes of this section, the Secretary is authorized to provide technical assistance and grants to private landowners for necessary stabilization activities of identified sites and for preparing recommendations for designating such sites as National Landmarks or other appropriate designations as the Secretary, with the concurrence of the landowners, determines to be appropriate.*

*(c) The Secretary is authorized to enter into cooperative agreements with the States, State Archeological Surveys, and Regional Archeological Centers of the Delta Region to develop a ten-year plan for the stabilization, preservation and interpretation of those sites and structures as may be identified by the Secretary.*

*SEC. 107. HISTORIC AND ARCHEOLOGICAL RESOURCES PROGRAM.—(a) PROGRAM.—The Secretary shall conduct a comprehensive program for the research, interpretation, and preservation of significant historic and Archeological resources in the Delta Region.*

*(b) ELEMENTS OF THE PROGRAM.—The program shall include, but not be limited to:*

*(1) identification of research projects related to historic and Archeological resources in the Delta Region and a proposal for the regular publication of related research materials and publications;*

*(2) the development of a survey program to investigate, inventory and further evaluate known historic and Archeological sites and structures and identify those sites and structures that require additional study;*

*(3) identification of a core system of interpretive sites and structures that would provide a comprehensive overview of historic and archeological resources of the Delta Region;*

*(4) preparation of educational materials to interpret the historical and archeological resources of the Delta Region;*

*(5) preparation of surveys and archeological and historical investigations of sites, structures, and artifacts relating to the Delta Region, including the preparation of reports, maps, and other related activities.*

*(c) GRANTS AND TECHNICAL ASSISTANCE.—(1) The Secretary is authorized to award grants to qualified tribal, governmental and non-governmental entities and individuals to assist the Secretary in carrying out those elements of the program which the Secretary deems appropriate.*

*(2) The Secretary is further authorized to award grants and provide other types of technical and financial assistance to such entities and individuals to conserve and protect historic and archeological sites and structures in the Delta Region identified in the program prepared pursuant to this section.*

*(d) The Secretary shall establish a national demonstration project for the conservation and curation of the archeological records and collections of Federal and State management agencies in the Delta Region.*

*SEC. 108. AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.*

## *TITLE II—INITIATIVES WITHIN THE DEPARTMENT OF ENERGY*

*SEC. 201. DEFINITIONS.—As used in this title, the term—*

*(1) "Center" means the Delta Energy Technology and Business Development Center established under section 202 of this Act;*

*(2) "Department" means the United States Department of Energy, unless otherwise specifically stated;*

*(3) "departmental laboratory" means a facility operated by or on behalf of the Department of Energy that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(d)(2) or other laboratory or facility the Secretary designates;*

*(4) "persons in the Delta Region" means an entity primarily located in the Delta Region, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including;*

*(A) a for-profit entity;*

*(B) a private foundation or corporation exempt under Section 501(c)(3) of the Internal Revenue Code;*

*(C) a non-profit organization such as a public trust;*

*(D) a trade or professional society;*

*(E) a tribal government;*

*(F) institutions of higher education; or*

*(G) a unit of State or local government; and*

*(5) "Secretary" means the Secretary of Energy, unless otherwise specifically stated.*

*SEC. 202. DELTA ENERGY TECHNOLOGY AND BUSINESS DEVELOPMENT CENTER.—(a) ESTABLISHMENT.—The Secretary shall enter into an agreement with Louisiana State University in partnership with Southern University in Baton Rouge, Louisiana, to establish the Delta Energy Technology and Business Development Center. The agreement shall provide for cooperative agreements with the University of Arkansas at Pine Bluff, Arkansas, and Alcorn State University in Lorman, Mississippi, and other universities and institutions in the Delta Region, to carry out affiliated programs and coordinate program activities at such universities and institutions.*

*(b) PURPOSE.—The purpose of the Center shall be to:*

*(1) foster the creation and retention of energy resource and manufacturing and related energy service jobs in the Delta Region;*

*(2) encourage the export of energy resources and technologies, including services related thereto, from the Delta Region;*

*(3) develop markets for energy resources and technologies manufactured in the Delta Region for use in meeting the energy resource and technology needs of foreign countries;*

*(4) encourage the successful, long-term market penetration of energy resources and technologies manufactured in the Delta Region into foreign countries;*

*(5) encourage participation in energy-related projects in foreign countries by persons in the Delta Region as well as the utilization in such projects of energy resources and technologies significantly developed, demonstrated, or manufactured in the Delta Region; and*

*(6) assist in the establishment of technology transfer programs in cooperation with Federal laboratories to create businesses in energy resources and technology in the Delta Region.*

*(c) GENERAL.—The Center, in cooperation with participating universities and institutions in the Delta Region, shall—*

*(1) identify and foster the establishment of flexible manufacturing networks in consultation with the States of the Delta Region to promote the development of energy resources and technologies that have the potential to expand technology development and manufacturing in, and exports from, the Delta Region;*

*(2) provide technical, business, training, marketing, and other assistance to persons in the Delta Region;*

*(3) develop a comprehensive database and information dissemination system, that will provide detailed information on the specific energy resources and technologies of the Delta Region itself, as well as domestic and international market opportunities for businesses in the Delta Region, and electronically link the Center with other institutions of higher education in the Delta Region;*

*(4) establish a network of business and technology incubators to promote the design, manufacture, and sale of energy resources and technologies from the Delta Region;*

*(5) enter into contracts, cooperative agreements, and other arrangements with the Federal government, international development agencies, or persons in the Delta Region to carry out these objectives; and*

*(6) coordinate existing Department and other Federal programs having comparable goals and purposes.*

*(d) ASSISTANCE FROM THE SECRETARY.—The Secretary is authorized to provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center and affiliated participating universities and institutions to carry out its activities under this section.*

*(e) GRANTS.—The Secretary is authorized to provide grants and other forms of financial assistance to the Center for the Center and participating universities and institutions to (1) support the creation of flexible manufacturing networks as identified in subsection (c)(1); and (2) develop the comprehensive database described in paragraph (c)(3); and (3) support the training, marketing, and other related activities of the Center.*

*(f) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—*

*(A) grants and donations from private individuals, groups, organizations, corporations, foundations, State and local governments, and other entities; and*

*(B) transfers of funds from other Federal agencies.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the programs under this section and for the establishment, operation, construction, and maintenance of the Center and facilities of participating universities and institutions.*

*"SEC. 203. INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION.—Title III of the Energy Policy and Conservation Act (42 U.S.C. §6371, et seq.) is amended by adding a new section 400K as follows:*

*"INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION*

*"SEC. 400K. (a) PURPOSE.—The purpose of this section is to encourage the use of energy conservation measures in the schools and hospitals of the Delta Region.*

*"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary is authorized to provide grants to schools or hospitals, or to consortiums consisting of a school or hospital and one or more of the following: State or unit of local government; local education agency; State hospital facilities agency; or State school facilities agency. Such grants shall be for purposes of conducting innovative energy conservation projects and providing Federal financing for energy conservation projects at schools and hospitals in the Delta Region.*

*"(c) APPLICATIONS.—(1) Applications of schools or hospitals for grants under this section shall be made not more than once for any fiscal*

*year. Such applications shall be submitted to the State energy agency, in consultation with the planning and Development Districts in the Delta Region, and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).*

*"(2) Applications for grants shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing institutional conservation programs under this part; provided, however, that the Secretary shall encourage flexible and innovative approaches consistent with this Act.*

*"(d) SELECTION OF APPLICATIONS.—(1) Not later than six months after the receipt of applications under subsection (c), the Secretary shall select at least seven, but not more than 21, proposals for States to receive grants under subsection (b).*

*"(2) The Secretary may select more than 21 applications under this subsection, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.*

*"(3) No one State shall receive less than one, or more than four, grants under subsection (b).*

*"(4) Such grants shall be in addition to such grants as would otherwise be provided under Part G of this Act.*

*"(5) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.*

*"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:*

*"(1) the location of the grant recipient in the Delta Region;*

*"(2) the demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section;*

*"(3) the demonstrated or potential ability of the grant applicant to improve energy conservation measures in the designated school or hospital; and*

*"(4) such other criteria as the Secretary deems appropriate for carrying out the purposes of this section.*

*"(f) DEFINITION.—For purposes of this section, the term "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.".*

*"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1995, and 1996, and 1997.".*

*SEC. 204. ENERGY RELATED EDUCATIONAL INITIATIVES.—(a) MINORITY COLLEGES OR UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—*

*(A) describe ongoing education and training programs carried out by the Department or the departmental laboratories with respect to, or in conjunction with, minority colleges or universities in the areas of mathematics, science, and engineering;*

*(B) describe ongoing research, development, demonstration, or commercial application activities involving the Department or the departmental laboratories and minority colleges or universities;*

*(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);*

*(D) identify ways for the Department or the departmental laboratories to assist minority colleges or universities in providing education and training in the fields of mathematics, science, and engineering;*

*(E) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;*

*(F) address the need for, and potential role of, the Department or the departmental laboratories in providing minority colleges or universities with the following:*

*(i) increased research opportunities for faculty and students;*

*(ii) assistance in faculty development and recruitment;*

*(iii) curriculum enhancement and development; and*

*(iv) improved laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer mechanisms;*

*(G) address the need for, and potential role of, the Department or departmental laboratories in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges and universities; and*

*(H) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories in order to assist minority colleges or universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.*

*(2) The Secretary shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges and universities directed at jointly planning and developing programs to foster greater involvement of minority colleges and universities in research, education, training, and recruitment activities of the Department.*

*(b) MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAMS FOR THE DELTA REGION.—The Secretary shall establish a scholarship program for students pursuing undergraduate or graduate degrees in energy-related scientific, mathematical, engineering, and technical disciplines at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study.*

*(c) PRE-COLLEGE EDUCATION.—The Secretary shall undertake activities to encourage pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for students in the Delta Region. Such activities shall include, but not be limited to the following:*

*(1) cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students in energy-related scientific, mathematical, engineering, and technical disciplines;*

*(2) cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs in energy related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students;*

*(3) cooperation with, and assistance to, State departments of education and local school districts in the development and use of curriculum and educational materials in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary students; and*

*(4) the establishment of education programs in subjects relating to energy-related scientific, mathematical, engineering, and technical disciplines for elementary, middle, and secondary school teachers in the Delta Region.*

*(d) VOLUNTEER PROGRAM.—The Secretary shall carry out a program to encourage the involvement on a voluntary basis of qualified employees to the Department in educational program relating to energy-related scientific, mathematical, engineering, and technical disciplines, in cooperation with state departments of education and local school districts in the Delta Region.*

*(e) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences, mathematics, engineering and technical disciplines. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta, Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.*

*(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, education assistance programs administered by the Department and by other Federal agencies in the Delta Region. These agencies include, but are not limited to, the Department of the Interior, the Department of Agriculture, the Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.*

*SEC. 205 INTEGRATED BIOMAS ENERGY SYSTEMS.—(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a research, development and demonstration program to determine the economic viability of integrated biomass energy systems within the Delta Region.*

*(b) PROGRAM PLAN.—Not later than six months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a program plan to guide the activities under this section.*

*(c) SOLICITATION OF PROPOSALS.—Not later one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the program plan. Such activities shall include at least three demonstrations of integrated biomass energy systems that:*

*(1) involve the production of dedicated energy crops of not less than 25,000 acres per demonstration;*

*(2) include predominantly herbaceous energy corps;*

*(3) include predominantly short-rotation woody crops;*

*(4) demonstrate cost-effective methods for growing, harvesting, storing, transporting, and preparing energy crops for conversion to electricity or transportation fuel; and*

*(5) result in the conversion of such crops to electricity or transportation fuel by a non-Federal energy producer or the Tennessee Valley Authority.*

*(d) COST SHARING.—(1) For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.*

*(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this section if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.*

*(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1995, 1996, and 1997.*

*SEC. 206. WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION.—Title IV of the Energy Conservation and Production Act (42 U.S.C 6851, 6861–6846) is further amended by adding a new section 423 as follows:*

*"WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION*

*"SEC. 423. (a) PURPOSE.—The purpose of this section is to encourage the weatherization of low-income dwelling units in the Delta Region.*

*"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary shall make grants to (1) States, and (2) in accordance with the provisions of subsection (413)(d), to Indian tribal organizations to serve Native Americans in the Delta Region. Such grants shall be made for the purposes of providing financial assistance for the weatherization of low-income dwelling units.*

*"(c) APPLICATIONS.—(1) Applications of States or Indian tribal organizations for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State weatherization agency, in consultation with Community Action Agencies and Planning and Development Districts in the Delta Region, and the State weatherization agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).*

*"(2) Applications for grants for energy conservation projects shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing weatherization assistance programs under this Part.*

*"(d) SELECTION OF APPLICATIONS.—(1) The Secretary shall select applications from States to receive grants under subsection (b).*

*"(2) Such grants shall be in addition to such grants as would otherwise be provided under section 414 of this Act.*

*"(3) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.*

*"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section in accordance with the requirements of sections 414(b) and 415 of this Act, and on the basis of the following criteria:*

*"(1) the location of the grant applicant in the Delta Region;*

*"(2) the demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section; and*

*"(3) the demonstrated or potential ability of the grant applicant to improve energy efficiency in low-income dwelling units.*

*"(f) COORDINATION WITH OTHER WEATHERIZATION ASSISTANCE PROGRAMS.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, Department weatherization assistance programs under sections 413, 414A and 414B of this Act.*

*"(g) DEFINITION.—For purposes of this section, the term "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.".*

*"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1995, 1996, and 1997.".*

*SEC. 207. RENEWABLE ENERGY PRODUCTION INCENTIVES.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by inserting immediately after "foregoing," the following: "by the Tennessee Valley Authority,".*

Mr. JOHNSTON. I am pleased to bring S. 991, the Lower Mississippi Delta Initiatives Act of 1993, for Senate consideration. This legislation is based on the findings and recommendations put forth by the Lower Mississippi Delta Development Commission—a group of individuals chosen for their particular expertise in the economic, social, and infrastructure problems of the lower Mississippi Delta region. The Commission spent almost 2 years analyzing both the problems and opportunities of the lower Mississippi Delta States—Missouri, Tennessee, Kentucky, Illinois, Arkansas, Mississippi, and my own State of Louisiana—and put together a comprehensive report outlining policies that if fully implemented could alleviate the poverty of much of the region. A number of these recommendations fall under the jurisdiction of the Department of Energy and the Department of the Interior and they are addressed in this legislation.

The delta region is not the only area of the United States with severe social and economic problems—many of our Nation's cities have similar difficulties maintaining high paid jobs, quality health care, and good schools. But a 1988 Congressional Research Service report entitled "The Economic Health of the Lower Mississippi River Valley," found that the 219 counties and parishes of the lower Mississippi Delta are among the poorest in the Nation. In fact, only three of the counties in the entire region do not fall well below national averages for all major poverty indices including unemployment and infant mortality. Research by the Delta Development Commission supports these grim statistics.

Ironically, the Commission found that the delta region has an abundance of natural and physical resources including timber, mineral, and agricultural resources. The delta region also has a rich heritage and significant archaeological and historical sites can be found throughout the seven State region. Clearly, there is a solid resource base for economic and cultural development that if used productively can provide jobs, income, and an increase in the standard of living for many of the region's 8.3 million residents.

I know I speak not only for myself, but for my fellow cosponsors—Senators BUMPERS, FORD, MATHEWS, CAMPBELL, SHELBY, and LOTT—when I say that we have an obligation to reach out to the people of the lower Mississippi Delta region. I believe that the Lower Mississippi Delta Initiatives Act of 1993 will provide vital assistance to the delta region's population by:

Providing increased opportunities for students in the region's colleges and universities to pursue careers in mathematics, the sciences, and the natural resources;

Establishing programs to preserve the cultural, natural and historic heritage of the delta region;

Establishing an Energy Technology and Business Development Center and network to provide technical assistance to small businesses in the delta region; and

Expanding existing Federal energy efficiency and renewable energy programs to better meet the needs of delta residents.

I urge my colleagues to join this bipartisan effort to support this important legislation.

Mr. BUMPERS. Mr. President, I rise today in support of S. 991, the Lower Mississippi Delta Initiatives Act of 1993. I am pleased that the Senate has today chosen to take the first step, in what I hope will be the journey toward economic development of the least advantaged region in the entire United States—the lower Mississippi Valley.

Located along one of the great rivers of the world, and including some of its finest farmland, this region has long surpassed every region of the country in terms of measurable poverty-numbers of poor counties, low per capita income, and unemployment. In short, Mr. President, there is more economic misery in the Mississippi Delta than any other region of the country.

The Lower Mississippi Delta Initiatives Act contains a number or provisions which emanate from recommendations made by the Lower Mississippi Delta Development Commission, which was chaired by President

Clinton when he was Governor of Arkansas. I am particularly pleased that this legislation would substantially increase educational opportunities in the region. Education may be the most important factor that could help residents in the area improve their lives as well as the lives of their children and grandchildren.

Mr. President, S. 991 will not, by itself, put an end to the poverty and misery in the Delta region. Much more needs to be done if we are to solve these problems. However, Senator JOHNSTON should be commended for leading this effort to begin the long climb back. I hope to work with the senior Senator from Louisiana in further endeavors concerning the lower Mississippi Delta.

I am delighted that the Senate has today chosen to pass S. 991. I urge the House of Representatives to act promptly and look forward to its speedy enactment.

So the bill (S. 991) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

## LIBERTY SHIPS MEMORIAL ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1763, the Liberty Ships Memorial Act of 1993, introduced earlier today by Senator MIKULSKI; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1763) was deemed read three times, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

## EXPRESSING THE SENSE OF THE CONGRESS THAT U.S. TRUCK SAFETY STANDARDS ARE OF PARAMOUNT IMPORTANCE TO THE IMPLEMENTATION OF NAFTA

Mr. FORD. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Con. Res. 36, a concurrent resolution expressing the sense of the Congress on the importance of truck safety standards to the implementation of NAFTA; that the concurrent resolution be adopted; that the motion to reconsider be laid upon the table; further, that the preamble be agreed to; and that any statements relating to the measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 36) was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

## CHILD SAFETY PROTECTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 322, S. 680, the Child Safety Protection Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 680) to provide toy safety, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Child Safety Protection Act".*

***SEC. 2. FINDINGS.***

*The Congress makes the following findings:*

*(1) According to the Consumer Product Safety Commission (hereinafter referred to as the "Commission"), between January 1980 and July 1991, 284 children under the age of 10 years choked to death. Of these 284 deaths, 186 involved children's products, including balloons, marbles, balls, and other toys. Between January 1, 1992, and September 30, 1993, 30 children died from toy-related causes, with almost one-half of that number (14) from choking. In addition, the Commission estimates that in 1992 alone there were 177,200 toy-related injuries serious enough to be treated in United States hospital emergency rooms, with almost one-half of the injuries to children under 5 years of age.*

*(2) Currently, at the Federal level, there are no required warning labels for toys intended for children over 3 years of age, which may present hazards for children under this age. Although many toy manufacturers voluntarily place a label on such items that state "for ages three and up", consumers often misinterpret these age labels as developmental recommendations rather than safety warnings indicating a possible choking hazard.*

*(3) According to a study published in the June 5, 1991, issue of the Journal of the American Medical Association entitled, "The Impact of Specific Toy Warning Labels", current warning labels on toys may not be sufficiently explicit to alert buyers of toys with small parts to the potential choking hazard to children under 3 years of age. The study further concludes that more specific labeling might substantially reduce potentially hazardous toy purchases.*

*(4) Between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that required treatment in hospital emergency rooms. Deaths and injuries from bicycle accidents cost society $7.6 billion annually, and a child suffering from a severe head injury, on average, will cost society $4.5 million over that child's lifetime.*

*(5) Ninety percent of all injuries to the brain and 85 percent of all head injuries suffered by bicyclists could be prevented by using bicycle helmets. Universal use of bicycle helmets in the United States would have prevented 2,600 deaths from head injuries and 757,000 head injuries between 1984 and 1988.*

***SEC. 3. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.***

*(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:*

***"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.***

*"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—*

*"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—*

*"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and*

*"(B) includes a small part, as defined by the Commission.*

*"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:*

*"WARNING:*

*CHOKING HAZARD—Small parts. Not for children under 3 yrs.*

*"(b) BALLOONS, SMALL BALLS, AND MARBLES.—*

*"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—*

*"(A) the packaging of such balloon, ball, marble, toy, or game,*

*"(b) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and*

*"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,*

*shall bear or contain the cautionary statement described in paragraph (2).*

*"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:*

*"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:*

*"WARNING:*

*CHOKING HAZARD—Children under 8 yrs can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once.*

*"(B) BALLS.—In the case of balls, the following cautionary statement applies:*

*"WARNING:*

*CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.*

*"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:*

*"WARNING:*

*CHOKING HAZARD—This toy is a small marble. Not for children under 3 yrs.*

*"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:*

*"WARNING:*

*CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.*

*In the case of toys or games containing marbles, the following cautionary statement applies:*

*"WARNING:*

*CHOKING HAZARD—Toy contains a small marble. Not for children under 3 yrs.*

*"(c) GENERAL LABELING REQUIREMENTS.—*

*"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—*

*"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and*

*"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).*

*"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material bears such statement.*

*"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—*

*"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and*

*"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.*

*"(B)(i) In the case of a product to which subsection (a) applies, the statement specified by this subparagraph is as follows:*

*"WARNING—SMALL PARTS.*

*"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:*

*"WARNING—CHOKING HAZARD.*

*"(iii) In the case of a product to which subsection (b)(2)(B) applies, the statement specified by this subparagraph is as follows:*

*"WARNING—SMALL BALL.*

*"(iv) In the case of a product to which subsection (b)(2)(C) applies, the statement specified by this subparagraph is as follows:*

*"WARNING—SMALL MARBLE.*

*"(v) In the case of a product to which subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:*

*"WARNING—SMALL PARTS.*

*"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".*

*(b) OTHER SMALL BALLS.—A small ball—*

*(1) intended for children under the age of 3 years of age, and*

*(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).*

*(c) REGULATIONS.—The Commission shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuance of regulations under this subsection.*

*(d) EFFECTIVE DATE; APPLICABILITY.—This section shall take effect January 1, 1995, and shall apply only to products entered into commerce on or after January 1, 1995.*

*(e) PREEMPTION.—*

*(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act.*

*(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.*

***SEC. 4. REPORTING REQUIREMENTS.***

*(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—*

*(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—*

*(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and*

*(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.*

*(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.*

*(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.*

*(b) REPORT TO CONGRESS.—Upon written request of the Chairman or Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee of such committee, the Commission shall provide to the Chairman or Ranking Minority Member any information reported to the Commission under subsection (a) for purposes that are related to the jurisdiction of such committee or subcommittee. Such information shall be aggregated so as not to reveal the identity of the person that reported the information to the Commission.*

*(c) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsections (a) of this section.*

***SEC. 5. BICYCLE HELMETS.***

*(a) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of enactment of this Act shall conform to—*

*(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and*

*(2) the final standard, once it has been established under subsection (c).*

*(b) INTERIM STANDARDS.—The interim standards are as follows:*

*(1) The American National Standards Institute standard designated as "Z90.4–1984".*

*(2) The Snell Memorial Foundation standard designated as "B–90".*

*(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.*

*(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—*

*(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;*

*(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;*

*(3) include in the final standard provisions that address the risk of injury to children; and*

*(4) include additional provisions as appropriate.*

*Sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056 and 2058) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.*

*(d) FAILURE TO MEET STANDARDS.—*

*(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.*

*(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.*

AMENDMENT NO. 1233

(Purpose: To make an amendment in the nature of a substitute)

Mr. FORD. Mr. President, on behalf of Senators BRYAN and GORTON, I send to the desk a substitute amendment and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BRYAN, for himself and Mr. GORTON, proposes an amendment numbered 1233.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

**SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.**

(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is

amended by adding at the end the following new section:

**"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.**

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

"WARNING:

CHOKING HAZARD—Small parts. Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children ages 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Children under 8 yrs can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—This toy is a marble. Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

"WARNING:

CHOKING HAZARD—Toy contains a marble. Not for children under 3 yrs.

"(c) GENERAL LABELING REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

"SAFETY WARNING

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

"WARNING—CHOKING HAZARD

"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this section shall be considered a misbranded hazardous substance under section 2(p).".

(b) OTHER SMALL BALLS.—A small ball—

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less, shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the "Commission") shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuances of regulations under this subsection.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995.

(e) PREEMPTION.—

(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

**SEC. 102. REPORTING REQUIREMENTS.**

(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—

(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1993".

**SEC. 202. ESTABLISHMENT OF PROGRAM.**

The Administrator of the National Highway Traffic Safety Administration may, in

accordance with section 203, make grants to States and nonprofit organizations for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

**SEC. 203. PURPOSES FOR GRANTS.**

A grant made under section 202 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

**SEC. 204. STANDARDS.**

(A) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4–1984".

(2) The Snell Memorial Foundation standard designated as "B–90".

(3) The American Society of Testing Materials standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate. Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 21058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

For the National Highway Traffic Safety Administration to carry out the grant program authorized by this title, there are authorized to be appropriated $2,000,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $4,000,000 for fiscal year 1996.

**SEC. 206. DEFINITION.**

In this title, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 204(b), pending establishment of a final standard under section 204(c); and

(2) the final standard, once it is established under section 204(c).

## TITLE III—BUCKET DROWNING PREVENTION

**SEC. 301. LABELING STANDARD REQUIREMENTS.**

On October 1, 1994, or 240 days after the date of the enactment of this title, whichever first occurs, there is established and effective a consumer product safety standard under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), to eliminate or reduce the risk of injury or death resulting from infants falling into 4-gallon to 6-gallon buckets containing liquid. Such standard, when established, shall require straight sided or slightly tapered, open head containers with a capacity of more than 4 gallons and less than 6 gallons (referred to in this title as a "bucket"), to bear one warning label in English and Spanish. The label shall meet the following requirements:

(1) The label shall be permanent so that such label cannot be removed, torn or defaced without the aid of tools or solvents.

(2) The label shall be at least 7 inches in height, and 3½ inches in width, or any larger size as the labeler may choose.

(3) The label shall be centered on one side of the bucket just below the point where the handle is inserted.

(4) The label shall have a border or other form of contrast around its edges to delineate it from any other information on the bucket.

(5) The label shall bear (A) the signal word "WARNING" in both English and Spanish, in bold uppercase lettering, and (B) in upper and lower case lettering the words "Children Can Fall Into Bucket and Drown. Keep Children Away From Buckets With Even a Small Amount of Liquid.", with an equivalent Spanish translation in at least the same type size as English. The signal word panel shall be preceded by a safety alert symbol consisting of an exclamation mark in a triangle.

(6) The label shall be clear and conspicuous and in contrasting colors.

(7) The label shall include a picture of a child falling into a bucket containing liquid. An encircled slash symbol shall be superimposed over, and surround the pictorial. The picture shall be positioned between the signal word panel and the message panel.

**SEC. 302. CERTAIN BUCKETS NOT AFFECTED.**

The standard established by section 301 applies only to buckets manufactured or imported on or after the effective date of such standard, and buckets manufactured or imported before such effective date may be sold without the warning label required by section 301 even though such sales occur after that date. The Consumer Product Safety Commission, by rule, shall prohibit a manufacturer, filler, distributor, and retailer from stockpiling buckets to which consumer product safety standards established by section 301 of this title would have applied but for the preceding sentence. For purposes of this section, the term "stockpiling" shall have the same meaning as that provided by section 9(g)(2) of the Consumer Product Safety Act.

**SEC. 303. PROHIBITED ACTS.**

(a) REMOVAL OF LABEL.—Once placed on a plastic bucket pursuant to the standard provided by section 301, it shall be a prohibited act under section 19 of the Consumer Product Safety Act for any person in the chain of distribution of the bucket to intentionally cover, obstruct, tear, deface or remove the label.

(b) CONSUMER PRODUCT SAFETY STANDARD.—The standard established by section 301 of this title shall be considered a consumer product safety standard established under the Consumer Product Safety Act.

**SEC. 304. EXISTING LABELS.**

Notwithstanding section 301, any bucket label in use on September 1, 1993, may, if such label is substantially in conformance with the requirements of paragraphs (3), (4), (5), and (6) of section 301, continue to be placed on buckets until 12 months after the date of the enactment of this title. Notwithstanding the preceding sentence, buckets subject to the provisions of this section must bear both an English and Spanish language label on and after the effective date of the standard established by section 301.

**SEC. 305. AMENDMENTS.**

Section 553 of title 5, United States Code, shall apply with respect to the Consumer Product Safety Commission's issuance of any amendments or changes to the bucket labeling standard established by section 301 of this title. Sections 7 and 9 of the Consumer Product Safety Act shall not apply to such amendments or changes.

**SEC. 306. RESPONSIBILITY FOR LABELING.**

(a) LABELING.—The standard established by section 301 requires the labeling of buckets covered by such standard to be the responsibility of the manufacturer of any such buckets, unless otherwise specified by contract between the manufacturer, and either the filler, distributor, or retailer of such buckets. Under no circumstances shall any such bucket enter the stream of commerce without such label.

(b) TIME FOR PLACING LABELS.—The required label must be on the bucket at the time it is sold or delivered to the end user of the bucket or its contents or, in the case of a bucket intended to be sold to the public in an empty state, at the time it is shipped to a retailer for sale to the public.

**SEC. 307. PERFORMANCE STANDARD.**

(a) PERFORMANCE STANDARD.—Within 30 days following the date of enactment of this title, the Consumer Product Safety Commission shall commence a proceeding under the Consumer Product Safety Act for the issuance of a performance standard for buckets to address the drowning hazard associated with this product. Such standard shall take effect at such time as may be prescribed by the Consumer Product Safety Commission, but in no event later than 15 months following the date of the enactment of this title. The Consumer Product Safety Commission shall consider any American Society for Testing and Materials voluntary performance standard in existence prior to such date of enactment.

(b) LABELING REQUIREMENTS.—The labeling requirements under section 101 shall not apply to buckets certified by the Consumer Product Safety Commission as meeting the performance standard in subsection (a).

**SEC. 308. CONSULTATION.**

To avoid duplicative and conflicting labeling, the Consumer Product Safety Commission shall complete a consultation with relevant Federal agencies within 30 days following the date of enactment of this Act.

SEC. 309. REQUIREMENT FOR COMMISSION STUDY.

(a) STUDY.—The Commission shall conduct a study to assess the frequency of deaths and injuries arising from drowning accidents in metal buckets, and the frequency and type of uses of 4-gallon to 6-gallon metal containers in the home, to determine whether special design and labeling standards are needed for such containers. The Commission shall report the results of the study to the Congress not later than one year after the date of enactment of this Act.

(b) EXEMPTION.—During the pendency of such study, metal containers which would otherwise be required to comply with the labeling requirements of section 301 are exempt from such requirements. Upon review of the results of the study, the Commission shall decide whether to continue this exemption, to require compliance by metal containers, or to consider further study in the future.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1233) was agreed to.

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee's Consumer Subcommittee, I rise today to urge my colleagues to support S. 680, The Child Safety Protection Act, legislation that will save children from needless deaths and injuries. I would like to commend Senator GORTON for introducing this important child safety measure and for his leadership in forging a workable compromise between advocates representing both sides of the issue. I would also like to thank Senators DODD and METZENBAUM for their efforts over the years to improve child safety, and, in particular, for their insights on this particular piece of legislation.

S. 680 was unanimously approved by the full Commerce Committee on November 9, 1993. The legislation we are considering today incorporates the provisions of S. 680 as reported, and incorporates provisions from S. 228, pertaining to bicycle helmet safety, which I introduced earlier this year along with my colleagues Senators DANFORTH and MCCAIN, and which was approved by the Commerce Committee on May 25, 1993. In addition, Senator METZENBAUM has offered additional provisions that require the Consumer Product Safety Commission (CPSC) to take action to prevent children from drowning in 5 gallon-type buckets. Thus, the amendment we are considering today would require the CPSC to, first, take action to make toys safer for children through the use of warning labels and other means; second, begin a rulemaking proceeding to establish a final safety standard for bicycle helmets; and third, promulgate labeling requirements and a performance standard to prevent bucket drownings. In addition, the bill establishes a safety grant program within the National Highway Traffic Safety Administration [NHTSA] to provide incentives for States to encourage the use of bicycle helmets by children.

Each year, approximately 30 children die from toy-related causes, and thousands more are injured. In 1992 alone, 177,200 children were treated in hospital emergency rooms for toy-related injuries. S. 680 attempts to remedy this situation by providing information to parents and others about possible hazards that certain toys may present to small children. The bill requires warning labels on certain toys that pose a choking hazard to children under 3 years of age. The legislation strikes a balance by warning parents of possible dangers in certain toys for very small children, but allowing such toys to be marketed and sold to older children.

The legislation also directs the CPSC to begin a rulemaking proceeding to establish a final safety standard for bicycle helmets. Each year in the United States, hundreds of bicyclists die from head injuries, and thousands more are seriously injured. A child who suffers a severe head injury, on average, will cost society $4.5 million over that child's lifetime. The legislation would replace the voluntary standards for bicycle helmets currently in existence with a single uniform safety standard approved by the CPSC. Under the rulemaking, the CPSC is specifically directed to address the risk of injury to children, among other issues. In addition, under the NHTSA safety grant program designed to encourage helmet use, recipients could qualify for funds in a variety of ways, including the adoption of a requirement that children wear bicycle helmets or the development of programs to educate children and their families on the importance of wearing helmets Thus, the legislation would not only promote helmet use by children to prevent injuries, but would also ensure that such helmets are indeed safe and effective for that purpose.

Finally, S. 680 requires labels on 5 gallon-type buckets to warn parents and other caretakers of the potential drowning hazards that such buckets may present. According to the CPSC, between January 1984 and June 1, 1993, 212 toddlers were reported to have drowned in 5 gallon-type buckets when they fell head first into a bucket containing water or other liquid. In addition, each year approximately 130 more toddlers are taken to hospital emergency rooms for treatment. Thus, in addition to warning labels, the legislation also directs the CPSC to develop a performance standard to change the design of these buckets to prevent infant drownings.

S. 680 is critically needed child safety legislation. The House has already passed a similar bill. I strongly urge my colleagues to support this measure, so that we can have this legislation on the President's desk before Thanksgiving. Enactment of this legislation will go a long way toward making children's lives safer, not only this Christmas, but every Christmas in the future.

Mr. GORTON. Mr. President, the best gift a man and a woman can ever receive is to be the parent of a healthy and safe child. As Congress adjourns for the year, and as our thoughts turn to the joy of the holidays, we have the opportunity to give parents the best present of all—a little more security, a little more protection, a chance that tragic accidents will be prevented, a chance that their child's life will be safer. We can do this by passing the Child Safety Protection Act.

In March of this year, I introduced the Child Safety Protection Act, an identical measure to the House-passed bill introduced by Congresswoman CARDISS COLLINS. The bill would mandate safety warning labels on certain toys that contain dangerous small parts, small balls, balloons and marbles so that parents would be aware that they should keep these toys away from children under the age of three. The bill also requires national mandatory performance standards for bicycle helmets.

According to the Consumer Product Safety Commission, between January 1980 and July 1991, 284 children under the age of 10 years choked to death. Of these deaths, 186 involved children's products, including balloons, marbles, small balls, and other toys. Between January 1, 1992 and September 30, 1993, 30 children died from toy-related causes, with almost half of that number (14) caused from choking. In addition, the Commission estimates that in 1992 alone, there were 177,200 toy-related injuries serious enough to be treated in hospital emergency rooms, with almost one-half of the injuries to children under 5 years old.

Bicycle related death and injuries are also a very serious problem. Between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that required treatment in hospital emergency rooms. Eighty-five percent of all head injuries suffered by bicyclists could be prevented by using bicycle helmets.

The bill that the Senate has before it today differs in some respects from my original legislation, from the bill that passed the House earlier this year, and from previous bills introduced in the Senate by my colleague, Senator DODD. It is a compromise measure that results from many hours of discussions that we have had with consumer groups and with toy manufacturers. I would like to thank my colleagues and their staffs who have been a part of these negotiations including the Chairman of the Consumer Subcommittee, Senator BRYAN, whom I have worked with on so many consumer protection measures, Senator ROCKEFELLER, Senator DANFORTH, Senator DODD and Senator LIEBERMAN. Throughout our discussions, we have held steadfast to our common goal of finding an effective,

clear means to inform parents and other purchasers of toys of possible dangers certain toys may pose if given to a young child for whom they are not intended. I believe we have fulfilled that goal.

Our bill calls for a clear and conspicuous label to be placed on the principal display panel of toys that contain small parts and that are intended for a child between 3 and 6 years old. Our legislation specifies what that label will say so that parents will clearly understand that the toy poses a safety hazard for children under three years of age. The bill also provides for an exemption for certain boxes which are in three languages and which are 15 square inches or less. For those boxes, the bill specifies a shortened warning label which must be displayed on the principal display panel along with an arrow or other indicator which directs the consumer to the full warning. The legislation also specifies warning labels for balloons, for small balls and for marbles.

The legislation also increases the minimum size allowed for a small ball that is intended for a child under three from 1.25 inches to 1.75 inches. This will lessen the choking risk associated with small balls. The legislation also includes additional reporting requirements to the CPSC when a manufacturer, distributor, retailer, or importer learns of certain choking incidences that involve the products affected by this legislation. Additionally, the legislation because of unique circumstances which I intend to address in detail with my colleague, Senator BRYAN, in a colloquy provides for preemption of future toy labeling laws by States or political subdivisions. An exception is made until January 1, 1995 when the Federal law becomes effective, for a State which already has a law in effect on October 2, 1993. Connecticut is the only State which has such a law.

Mr. President, this bill is a fair and balanced measure. It will help make our world a little safer for our country's most vulnerable citizens—our children and grandchildren. I urge the Senate to adopt this important bill.

Mr. METZENBAUM. Mr. President, I rise in strong support of the child safety measures contained in this legislation. This measure will go a long way in protecting children from tragic accidents.

There is nothing worse that I can think of than the death of a child, especially when such a tragedy can be prevented. That is why I am such an ardent proponent of this legislative measure designed to protect children from unsafe toys, bike helmets and industrial-sized buckets.

I have long supported efforts to encourage bike helmet use by children as well as to require uniform Federal safety standards for adult and child-size bike helmets. In fact, I introduced a separate bill which is similar to the measure we are considering today.

And I feel just as strongly about the need to protect children from unsafe toys. I believe it is essential for this Congress to move expeditiously on toy labeling provisions that will help parents make wiser—and safer—toy purchases for their children.

As the principal sponsor of the Bucket Drowning Prevention Act, I am particularly gratified that an agreement has been worked out to include bucket labeling language in this legislation. This provision deals with the long ignored hazard of toddlers drowning in industrial-size 4- to 6-gallon buckets.

Since 1984, an estimated 400 children have died in their homes when they toppled head first into industrial-size plastic buckets, drowning in the liquid contents of these buckets. While we cannot bring these children back, we can help prevent such tragedies from occurring in the future.

The bill I introduced and whose provisions are included in the measure now before the Senate would require that warning labels be placed on these industrial-size buckets to avoid such tragedies.

Most people do not realize the threat that these 4- to 6-gallon buckets pose to toddlers. They appear innocuous enough. These buckets can be purchased new in stores for heavy-duty household chores. And millions of them are used each year by industry to transport commercial quantities of products such as food, paint or construction materials. When emptied of their original contents, these industrial containers can wind up in family homes.

The industrial buckets, when used in homes, present a very real danger to small children and infants. Tragic drowning accidents occur because of the limited physical capabilities of toddlers. Top-heavy when small, toddlers can fall head first into a bucket and not be able to get out of it or tip it over. Indeed, nearly 80 percent of all the reported drowning victims were between the ages of 8 to 13 months old.

Clearly, action needs to be taken in this area. Today, only a small percentage of the industry voluntarily labels its buckets to warn of the drowning hazard. While California has enacted a bucket labeling law, there are no existing national voluntary or Federal mandatory labeling standards. and despite Consumer Product Safety Commission staff recommendations to the contrary, the Commission has not moved forward to mandate warning labels or performance standards for these buckets.

The provision in the measure before us reflects agreement between consumer groups and industry. It will mandate that a clearly visible single warning label in both English and Spanish be placed on 4- to 6-gallon buckets. But it also requires the Consumer Product Safety Commission to promulgate a performance standard to ultimately change the design of these buckets so that drownings cannot occur.

Mr. President, as I said, consumer groups and industrial manufacturers and users of these buckets are supporting this provision. It is a balanced measure. It sets out uniform labeling standards which ease industrial compliance, while preventing needless and tragic childhood drownings in 4- to 6-gallon buckets. Along with the Bike Helmet Safety and Toy Safety provisions, this measure appears to be on the fast track to final congressional passage. That's great news for the Nation's families.

I urge adoption of the package.

Mr. DANFORTH. Mr. President, I am pleased to support S. 680, the Child Safety Protection Act. This is important safety legislation which will reduce the incidence of children under age 3 choking on toys, and I commend Senator GORTON for his leadership on this issue. In addition, this bill includes a title to promote bicycle helmet use by children. This title is based on S. 228, the Children's Bicycle Helmet Safety Act of 1993, which Senator BRYAN and I introduced on January 27, On May 25, the Commerce Committee reported this measure by voice vote.

The need to address bicycle safety is clear. A study conducted for the Centers for Disease Control [CDC], which was published in December 1991 in the Journal of the American Medical Association, provides revealing data about the magnitude and severity of head injuries suffered by cyclists. The study found that, between 1984 and 1988, nearly 3,000 people died from head injuries while cycling, and over 900,000 suffered head injuries. This represents 62 percent of all bicycling deaths, and 32 percent of bicycling injuries that required treatment in hospital emergency rooms. The Consumer Product Safety Commission [CPSC] estimates that bicycle-related deaths and injuries cost society $7.6 billion annually.

The statistics regarding children are even more compelling. The CDC study found that 41 percent of head injury deaths and 76 percent of total head injuries occurred among children under age 15. According to the National Head Injury Foundation, the cost of supporting a child who has suffered a severe head injury, on average, is $4.5 million over that individual's lifetime. For the family of a child killed or injured in a bicycle accident, the tragedy is immeasurable.

These losses are made more tragic by the fact that so many of them could have been prevented by taking one simple step: wearing a protective bicycle helmet. A 1989 study published in the New England Journal of Medicine found that use of a bicycle helmet reduces the risk of all head injuries by 85

percent and injuries to the brain by 90 percent. According to the CDC study, universal use of bicycle helmets would have prevented 2,600 deaths and 757,000 injuries between 1984 and 1988. Unfortunately, few riders wear helmets. In the case of children cyclists, it is a tragic fact that only 5 percent of these vulnerable riders wear helmets, according to the American Academy of Pediatrics.

Several local governments have taken steps to increase helmet use. For example, Howard and Montgomery Counties in suburban Maryland have enacted laws requiring children to wear bicycle helmets. I applaud their actions, but more needs to be done. This bill establishes a grant program within the National Highway traffic Safety Administration to promote helmet use. These grants could be used by state or local governments or nonprofit organizations in any of three ways. First, the grant could be used to assist those unable to afford a helmet, which costs about $40, to purchase one. In addition, it could be used for the creation of helmet "bank," which would allow parents of limited means to obtain helmets for their children and to exchange old helmets for those in a larger size as their children grow. Second, the funds could be used to educate children about the need to wear bicycle helmets. Finally, the grant could be used to assist in the enforcement of a mandatory bicycle helmet law for children. The bill specifically states that grantees are to be given broad discretion in establishing programs that effectively promote increased helmet use.

The bill also includes a provision requiring the CPSC to establish uniform safety standards for bicycle helmets. Included in these standards are provisions that address the risk of injury to children. The purpose of this requirement is to replace the existing voluntary standards with a single provision approved by the CPSC.

The failure to wear a bike helmet can have tragic results. The grant program established in this measure takes a reasonable approach by allowing state and local officials to decide how their communities can best address this problem. This proposal will bring together State and local governments, parents, teachers, and others responsible for children, to protect against injuries and to save lives. The total funding of $9 million over three years would be offset by preventing only a few serious head injuries per year. This bill will prevent hundreds of such tragedies. Moreover, since the grants come out of existing funds in NHTSA's budget, the bill will not add to the deficit. According to the National Safe Kids Campaign, an organization of health, consumer, educational, and law enforcement groups dedicated to improving child safety, this legislation will reduce substantially the leading cause of death for children 15 and under—accidential injury.

Last Congress I introduced S. 3096, a bill similar to S. 228. S. 3096 passed the Senate, but the House failed to act prior to adjournment. Mr. President, the need to enact this measure is clear, and the time to act is now. I urge my colleagues to support S. 680.

Mr. DODD. Mr. President, I am delighted today to lend my support to S. 680, the Child Safety Protection Act. Passage of this legislation will mark the culmination of several years of effort of my part to establish a Federal system of warning labels on children's toys.

The need for such legislation is great. All too many parents have experienced the horror of having their child choke on a toy or a game piece. In 1991, choking was the cause of death in 19 of the 37 toy-related deaths. Of the 19 children who died, 14 were under the age of three. From January 1991 to September 1992, at least 31 children died in toy-related accidents. Almost half of these deaths were caused by choking, and all the victims were under the age of three. These facts demonstrate the necessity of this legislation to prevent such senseless deaths.

Two years ago, in the 102d Congress, I first introduced the Toy Injury Reduction Act. This legislation was based upon a Connecticut statute—the only one of its kind in the nation—that had established a safety warning label system for any toys sold in Connecticut.

Earlier this year, my colleague from the State of Washington, SLADE GORTON—the ranking Republican on the Consumer Subcommittee—introduced his own toy safety legislation, which is the bill before us today.

The relatively short length of this legislation belies the amount of work that has gone into forging a compromise between my original legislation and that of Senator GORTON. For 8 months, we have engaged in lengthy and numerous meetings to try and strike a proper balance between the need to inform parents of safety considerations and the desire to set a standard that does not put unnecessary burden on toy manufacturers. This legislation meets that test.

There are many people who have made this possible. Consumer groups, toy manufacturers and the Consumer Products Safety Commission, but in particular I would like to mention the tireless work of 4 individuals—Terri Claffey of Senator GORTON's staff, Tiger Joyce of Senator DANFORTH's staff, Claudia Simons of Senator BRYAN's staff and Peter Arakas of LEGO Systems, Inc. of Enfield, CT. Without their diligence, this legislation never would have happened. They are, more than anyone else, the reason parents in this country will have a new tool to ensure that their kids are safe at play.

Mr. GORTON. This bill contains a preemption provision that is different from the general preemption provision in the Federal Hazardous Substances Act [FHSA]. The preemption provision in the bill is intended to address the unique circumstances of a particular case and is not to be interpreted as establishing a precedent for future legislation. Also, the provision in this bill does not imply that the existing FHSA preemption provision is inadequate.

Mr. BRYAN. That is correct. The preemption provision in the FHSA provides that when a labeling requirement is established under the statute, no state or political subdivision thereof may establish or continue in effect a cautionary labeling requirement applicable to a substance or its packaging and designed to protect against the same risk of illness or injury unless that cautionary labeling requirement is identical to the requirements under the FHSA. The statute has a similar preemptive effect when a banning requirement is established under the FHSA.

Mr. GORTON. My understanding is that there are three exceptions to the preemption provision in the FHSA. The first is that the Federal Government or the government of any State or a political subdivision may establish and continue in effect more stringent requirements for their own procurement purposes. Second, a State or political subdivision may apply to the Consumer Product Safety Commission [CPSC] to be exempted from preemption under certain conditions. Finally, States and political subdivisions may establish and continue in effect more stringent requirements applicable to fireworks.

Mr. BRYAN. The unique situation that the preemption provision in this bill addresses arises as a result of litigation involving a Connecticut State toy labeling law enacted in 1992 that applies to toys with small parts intended for children between the ages of three and seven. The Toy Manufacturers Association [TMA] challenged this law in Federal court alleging that such law was preempted by existing CPSC regulations issued under the FHSA that ban small parts intended for children under 3 years of age.

Mr. GORTON. In *Toy Manufacturers Association v. Blumenthal*, 986 F.2d 615 (2d Cir. 1993), the second circuit ruled that the Connecticut toy labeling law was not preempted by existing CPSC regulations. In its decision, the Court pointed out that, under the existing FHSA preemption provision, preemption applied only if a State regulates the same "substance" which is regulated under the FHSA. According to the court, since the existing CPSC regulations applied to toys with small parts intended for children under age three, and the Connecticut law applied to toys with small parts intended for children between the ages of 3 and 7,

the substance being regulated under the two regulatory regimes was not the same. Therefore, preemption did not apply.

Mr. BRYAN. The legislation we are considering today requires labeling of certain toys and games intended for children who are at least three but not older than six—or such other upper age limit that the CPSC may determine is appropriate, but not less than five. My understanding is that TMA believes that there is a possibility, based on the precedent established by the second circuit, that, without specific preemption language in the bill, a State would not be preempted by the existing FHSA preemption provision from enacting toy labeling legislation for toys intended for children older than the age levels covered by this legislation.

Mr. GORTON. That is correct. Accordingly, this legislation contains a special preemption provision to ensure that it will be interpreted to preempt nonidentical State requirements—and those of political subdivisions thereof—relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children, and specifically including such labeling requirements for toys intended for children older than those covered by this legislation.

Mr. BRYAN. It is my understanding that there are a limited number of 5 gallon buckets with a permanently affixed lid, the design of which precludes the bucket from being an infant drowning hazard. The contents of these buckets are dispensed without removing the lid. The lid cannot be removed with normal prying tools—e.g. screwdrivers, pry bars, etc.; special tools not available to end-users of buckets are required. The opening in the lid for dispensing of contents does not exceed 70mm—less than 3 inches—in diameter, and these buckets and their contents are not sold to household consumers. It is the understanding of the Senator that buckets identical to, or substantially similar to, this description would be exempt from the labeling requirements of this Act?

Mr. METZENBAUM. That is my understanding.

Mr. BRYAN. Section 308 of the provision requires consultation between the Consumer Protection Safety Commission and relevant Federal agencies to consult within 30 days on any duplicative and conflicting labeling. Why is this necessary?

Mr. METZENBAUM. The action we are taking today will require a mandatory label to warn consumers and bucket users to beware of the potential drowning hazard and urge them to keep children away from buckets with even a small amount of liquid. Other Federal agencies, such as DOT and EPA, under different Federal statutes, have detailed and complex labeling requirements.

For example, DOT requires that huge warning labels be placed on packages to warn about corrosives, oxidizers or flammables. Under its pesticide program, EPA requires final approval of all labels, including the signal word of warning, environmental hazards, direction for use, storage, and disposal requirements, all of which must appear on the label.

It is important that changes to the labels are coordinated between various federal agencies. Section 308 requires that the Consumer Protection Safety Commission consult with DOT and EPA so as to avoid duplicative and conflicting labeling.

Mr. BRYAN. In section 301(6), the Senator makes reference to a pictorial of a child falling into a bucket. Is there any model for this pictorial?

Mr. METZENBAUM. Yes, I would refer people to figure 1 as pictured in the ASTM Emergency Labeling Standard for Buckets ES26-93 as the pictorial model favored by the Consumer Product Safety Commission.

Mr. BRYAN. What is the purpose of section 307 relative to the requirement of labeling as set forth in section 301?

Mr. METZENBAUM. The purpose is to acknowledge that various potential configurations of buckets and lids as well as potential end uses of such buckets and lids may obviate the need to comply with the labeling requirement because of a significant reduction in the potential hazard presented, either because of design or end use of the container.

Mr. BRYAN. What is meant by term "stream of commerce" in section 306(a)?

Mr. METZENBAUM. To avoid any confusion the definition of "stream of commerce" shall be defined by part (b) in this section exclusively.

Mr. BRYAN. Section 307 instructs the CPSC to develop performance standards for the buckets in question. Is it your intent that those standards would effectively ban these products from the marketplace?

Mr. METZENBAUM. Absolutely not.

Mr. BRYAN. Section 307 instructs the CPSC to develop performance standards. Could you give me some examples of what kind of criteria might be considered?

Mr. METZENBAUM. It is my understanding that ASTM—the American Society of Testing Materials—has been working on this for the last couple of months. Some of the proposed standards under discussion would exempt containers which pose no drowning hazard from labeling requirements. Still other standards under discussion might call for a change in the configuration of the bucket itself, including requiring restricters, smaller bucket openings, or different heights or widths. I understand that the following buckets might be deemed to meet a performance standard and could be exempt from labeling.

Buckets wherein Federal regulations require treatment or disposal techniques to be performed after the emptying of the contents such as to render the bucket ineffective or unavailable for use with liquid contents.

Buckets onto which the filler installs the covers such that said covers have no means of facilitating removal, wherein said covers cannot be removed without the use of tools, wherein the contents of said containers are decanted through a pour sprout, and wherein said covers are marked by engraving or otherwise "do not remove cover".

Buckets used to contain materials intended for combustion or incineration wherein said buckets are also combusted or incinerated simultaneously.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

So the committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 965, the House companion; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken; that the text of S. 680, as amended, be inserted in lieu thereof; and that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 965), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

## MEASURE RETURNED TO THE CALENDAR—S. 680

Mr. FORD. Mr. President, I ask unanimous consent to return S. 680 to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORITY TO MAKE APPOINTMENTS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. Res. 172 submitted earlier today by the majority and the Republican leader, that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 172) was agreed to.

The resolution read as follows:

*Resolved*, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committee, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

## ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of calendar 287 (S. 1059), a bill to include Alaska Natives on a program for Native program and arts development, that the committed amendment be agreed to, that the bill be read a third time, passed, the motion to reconsider laid upon the table, that any statements on this measure appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1059) as amended, was deemed read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

## AMENDING THE THOMAS JEFFERSON COMMEMORATION COMMISSION ACT

## DESIGNATING RELIGIOUS FREEDOM DAY

Mr. FORD. Mr. President, I ask unanimous consent the Judiciary Committee be discharged en bloc from, and the Senate proceed to the immediate consideration of S. 1716, and Senate Joint Resolution 154, that the bill and the joint resolution each be read a third time, passed, the preamble where appropriate be agreed to, that the motions to reconsider be laid upon the table en bloc, that the consideration of these items appear individually in the RECORD, and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (S. 1716) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

So the joint resolution (S.J. Res. 154) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

(The text of the joint resolution will be printed in a future edition of the RECORD.)

## NATIONAL HOSPICE MONTH

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Joint Resolution 159 designating the month of November, 1993 and 1994, as the "National Hospice Month," just received from the House; that the joint resolution be read a third time, passed, the preamble be agreed to, that the motion to reconsider be laid upon the table, any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 159) was deemed read the third time and passed.

The preamble was agreed to.

## EXTENDING THE AUTHORITY OF THE MARSHAL OF THE SUPREME COURT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 1764, a bill to provide for the extension of authority for the Marshall of the Supreme Court and Supreme Court police introduced earlier today by Senator BIDEN, the bill be read a third time and passed, the motion to reconsider be laid upon the table, any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1764) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

## AIR FORCE MEMORIAL ESTABLISHMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 296, H.R. 898 a bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia, the bill be read three times, passed, the motion to reconsider be laid upon the table, that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 898) was deemed read three times and passed.

## DANIEL WEBSTER SENATE PAGE RESIDENCE

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of S. 1765 relating to the Daniel Webster Senate Page Residence introduced earlier today by Senators MITCHELL and BAUCUS, that the bill be deemed read three times, passed, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1765) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, Senator Daniel Webster of Massachusetts, one of the five outstanding Senators memorialized in the Senate Reception Room, is best remembered by historians and congressional scholars as the Union's most articulate and passionate defender during the heated sectional controversy that culminated in the Compromise of 1850. His ringing plea for compromise and union, delivered on March 7, 1850, in the old Senate Chamber—crowded to capacity by Senators, Representatives, and members of the public anxious to hear the Senate's most accomplished orator argue his cause, "not as a Massachusetts man, nor as a northern man, but as an American and a Member of the Senate of the United States"—was a selfless and statesmanlike act that helped preserve the Nation for another decade.

Webster entered Congress in 1813, serving two terms as a Federalist representative from New Hampshire. He returned to the House in 1823, as a representative from his adopted State of Massachusetts, where he served until his election to the Senate. During his years in the Senate, from 1827 to 1841 and again from 1845 until he resigned to accept an appointment as Secretary of State in 1850, Webster was a spokesman for the New England wing of the Whig party. Webster and his colleagues, Senators Henry Clay of Kentucky and John C. Calhoun of South Carolina, were the giants of their era—the "Great Triumvirate" of the Senate's golden age.

One of Webster's lesser-known accomplishments, but one of great significance to the modern Senate, was the establishment of the Senate page system. During the late 1820's, Webster secured the appointment of nine-year-old Grafton Dulaney Hanson as the Senate's first page. In 1830, Senator Webster observed 11-year-old Isaac Bassett, on a visit to the Capitol with his father, "running about the Senate Chamber," and asked the youth whether he would like to be appointed a page. The proposal to hire a second page met with considerable opposition from several Senators who believed that one was enough, Bassett later recalled, but Webster's argument that "there should be a page for the Whig as well as the Democratic side of the Chamber" prevailed. Bassett was appointed the Senate's second page on December 5, 1831. From that time to the present, the Senate has continued to appoint pages to assist Senators on each side of the aisle, continuing in the tradition established by Daniel Webster.

## FOR THE RELIEF OF NATHAN C. VANCE

Mr. FORD. Mr. President, I ask unanimous consent the Judiciary Committee be discharged and the Senate proceed to the immediate consideration of S. 871, a bill to provide for the relief of Nathan C. Vance, the bill be read the third time, passed, the motion to reconsider be laid upon the table, that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 871) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. SIMPSON. Mr. President, I will be very brief.

I want to thank my colleagues and offer my special appreciation to Senator HOWELL HEFLIN, chairman of the Courts Subcommittee of the Judiciary Committee, and the ranking member, Senator CHUCK GRASSLEY, for moving this legislation.

This legislation is identical to a bill I introduced late in the 102d Congress and which, because of the time constraints, was not reported from the Judiciary Committee.

The tragic Yellowstone forest fire of 1988 devastated Nathan Vance's outfitting business when it burned through his Teton wilderness camp. The fire destroyed essential outfitting equipment, and forced my fine constituent, Nate Vance, to suffer financial losses not only for the equipment, but for lost business. This legislation will partially compensate him for those equipment and other losses—as the Congress had intended to do with the original legislation we enacted following those tragic fires, public law 101-302. The forest fire was a devastating event in Mr. Vance's life—a tragedy compounded by insensitive government wrangling and delays.

The only reason Mr. Vance was not originally compensated for his $4,850 claim is that his application was received less than 24 hours after the cutoff period. But that was not his fault. It is reasonable to assume that it should not take 5 days for a letter to be received in Utah after being sent from Wyoming.

The compensation provided for in this legislation will prove that Congress can be compassionate to individual citizens and that we will not allow government to forget that we are here to serve the people, not to be unfair.

This legislation will require the Forest Service to pay him the appropriate funds now in the Forest Service regional fire budget for an amount representing only his equipment loss. This is only the amount that would have been sensibly approved if the Postal Service had taken 4 days, rather than 5, to deliver his claim from his Wyoming home to the Forest Service regional office in Utah.

Mr. Vance is a fine honest Wyoming citizen who is pursuing the American dream of owning and operating a business. I know Jim. I know his family. This is fair and good. He is entitled to relief and I thank my colleagues for your support in passing this legislation in the U.S. Senate.

I thank the chair.

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## WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent the Agriculture Committee be discharged from further consideration of S. 778, the Watermelon Research and Promotion Improvement Act of 1993, that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 778) to amend the Watermelon Research and Promotion Act to expand operation of that act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes.

AMENDMENT NO. 1234

(Purpose: To provide a substitute amendment)

Mr. FORD. Mr. President, on behalf of Senator BOREN I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for Mr. BOREN, proposes an amendment numbered 1234.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.
Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.
Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

**SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.**

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

(3) by adding at the end the following new subsection:

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

**SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.**

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

**SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.**

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

**SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.**

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

**SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.**

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

**SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.**

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following new paragraphs:

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

**SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.**

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

**SEC. 9. DEFINITION OF PRODUCER.**

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(l) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

**SEC. 10. AMENDMENT PROCEDURE.**

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

**"SEC. 1655. AMENDMENT PROCEDURE.**

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1234) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 778), as amended, was passed as follows:

## LIME RESEARCH ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of S. 1766, relating to the Lime Research, Promotion, and Consumer Information Improvement Act introduced earlier today by Senators GRAHAM and MACK, that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table, that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1766) was deemed read the third time and passed, as follows:

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## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 2330 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on H.R. 2330, the intelligence authorization bill; that the conference report be agreed to; that the motion to reconsider be laid upon the table; and that any statements therein appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

### THE CONFERENCE REPORT ON THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. WARNER. Mr. President, I support adoption of the conference report on H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. I wish to commend Senators DECONCINI, NUNN, THURMOND, INOUYE, and STEVENS, whose mutual cooperation in leading the Intelligence Committee, the Armed Services Committee, and the Defense Appropriations Subcommittee ensured effective funding for U.S. intelligence activities for fiscal year 1994. We appreciate also the cooperation we received from our counterparts in the other body.

With the end of the cold war and the dissolution of the Soviet Union and its Warsaw Pact military alliance, the United States had hoped for a new world order with stable and steady progress toward greater democracy, freedom, and free enterprise. What the United States faces in the post-cold-war era, however, is a more chaotic environment with multiple challenges to U.S. interests around the globe.

In an unstable world of diverse and increasing challenges, the need for effective, reliable intelligence capabilities, especially to support our Armed Forces, has grown rather than diminished. Enactment of H.R. 2330 will help build and maintain the intelligence capabilities we need for the future.

For the reasons set forth in the minority views accompanying the intelligence committee report on the original Senate version of the fiscal year 1994 intelligence authorization bill (S. Report. 103-115), I would have preferred a level of funding for intelligence activities higher than the conference recommended. Among other things, such activities are an important force multiplier for our Armed Forces in meeting an increasing variety of challenges. Funding for the full range of Federal activities has grown extremely tight, especially in recent months as Congress has considered fiscal year 1994 funding bills, which is appropriate to protect American taxpayers' interests. It is in this context that I support adoption of the conference report on H.R. 2330.

Within the overall intelligence funding level to which the committee of conference agreed—which must, of course, remain secret—the conference has generally distributed the funding among the various intelligence programs effectively, to maximize the capability achieved from the given level of resources.

Sections 309 and 310 of the conference report on H.R. 2330 relate to section 504 of the National Security Act of 1947, which addresses obligation and expenditure of appropriated funds for intelligence and intelligence-related activities.

### BACKGROUND ON SECTION 504 OF THE NATIONAL SECURITY ACT

Section 504 of the National Security Act of 1947 allows obligation and expenditure of appropriated funds for intelligence activities only in three situations. First, the appropriated funds may be used for an intelligence or intelligence-related activity when such use of the funds for the activity has been "specifically authorized by the Congress," a phrase defined in the statute. Second, the appropriated funds may be used for an intelligence or intelligence-related activity when the funds involved are funds appropriated for the CIA reserve for contingencies and the congressional Intelligence and Appropriations Committees have been notified. Third, the appropriated funds may be used for an intelligence or intelligence-related activity if they were specifically authorized by Congress for

a different activity and the activity for which they are instead proposed to be used is of higher priority, is based on unforeseen requirements, and the congressional intelligence and appropriations committees have been notified.

The phrase "specifically authorized by the Congress" as defined and used in sections 504 (a)(1) and (a)(3), means specifically authorized by statute, a requirement that cannot be satisfied by notification to and concurrence by committees of Congress. That interpretation is mandated under the constitutional principles enunciated in *INS* v. *Chadha*, 462 U.S. 919 (1983), is supported by the text of the very legislative provision originally adding the provision to the National Security Act, is supported by the legislative history reflected in a statement on the House floor at the time of the adoption of the final version of the legislation in 1985, is supported by the consistent practice of the Congress since then in enacting waivers of section 504(a)(1) as part of appropriations continuing resolutions enacted at the close of fiscal years when the annual intelligence authorization bills had not yet been enacted, and is supported most recently by enactment of section 8152 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139). My statement upon introduction of the Intelligence Authorization Process Adjustment Act (S. 1578), printed in the CONGRESSIONAL RECORD of October 21, 1993, sets this matter forth in further detail.

Provisions of section 504 require notification to appropriate committees of Congress of certain proposed funding transactions. Those provisions were enacted with the understanding that, as a matter of comity between the executive and legislative branches, the concurrence of the committees will be obtained before certain proposed transactions go forward. The statutory requirements in section 504 for advance notification to the committees of Congress are consistent with the Constitution (see *Sibbach* v. *Wilson*, 312 U.S. 1, 24 (1941)). Any theory that a statutory requirement for notification of the congressional intelligence committees in advance of the use of funds for intelligence or intelligence-related activities could in any way be construed as an unconstitutional condition has been considered and is rejected. Such a theory was propounded in the erroneous and recently published July 31, 1989 advisory opinion, addressing never-enacted legislation, by the Assistant Attorney General of the Office of Legal Counsel concerning notification of the intelligence committees of use of funding for certain CIA activities.

I regret that the Intelligence Authorization Act for Fiscal Year 1994 does not include a needed amendment to section 504 of the National Security Act of 1947. The amendment the Senate Select Committee on Intelligence had intended to pursue, which I introduced recently as S. 1578, would have made it legally unnecessary to pursue supplemental intelligence authorization statutes in situations in which funds are appropriated for intelligence or intelligence-related activities in excess of, or in the absence, of authorization of appropriations for such activities.

The legislation I have introduced as S. 1578 to modify section 504 of the National Security Act should be enacted to, first, ensure compliance with the Constitution and laws of the United States in the funding and conduct of intelligence activities; second, preserve the Congress's power of the purse with respect to these sensitive activities; and third, ensure sufficient flexibility for the executive branch in the conduct of intelligence activities.

SECTION 309 OF THE CONFERENCE REPORT

Section 309 of the conference report on H.R. 2330 amends section 307 of the National Security Act of 1947. Section 307 of the National Security Act contains a general statement that there are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of the act. Such general language does not suffice to meet the requirements in section 504 of the National Security Act that, to obligate or expend funds for an intelligence or intelligence-related activity, such funds must be "specifically authorized by the Congress," which means that the amount of funds was authorized by statute to be appropriated for that activity. To make that point explicit in section 307 of the National Security Act, section 309 of the conference report on H.R. 2330 excludes from the scope of section 307 the intelligence provisions of the National Security Act of 1947.

SECTION 310 OF THE CONFERENCE REPORT

Section 310 of the conference report on H.R. 2330 ratifies a transaction proposed to the intelligence committees of Congress by the Director of Central Intelligence on August 16, 1993, relating to the accelerated architecture acquisition initiative of the plan to improve the imagery ground architecture. The Director proceeded with that funding transaction, which involved the transfer of funds. The funds proposed to be transferred had not been specifically authorized by the Congress for purposes of section 504(a)(3) of the National Security Act, because no statute had authorized appropriation of those funds for an activity. Section 310 of the conference report on H.R. 2330 is necessary to ratify that transaction, which otherwise would violate section 504 of the National Security Act.

Transactions prior to the August 16, 1993 transaction which were undertaken based on the mistaken, but good faith, belief that the phrase "specifically authorized by the Congress" in sections 504 (a)(1) and (a)(3) of the National Security Act could be satisfied by notification to and concurrence by committees of the Congress also are intended to be deemed ratified, which protects certifying and disbursing officers.

I urge adoption of the conference report on H.R. 2330.

Mr. DECONCINI. Mr. President, I am pleased to lay before the Senate the conference report on H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. This conference report authorizes appropriations for the intelligence and intelligence-related activities of the Federal Government for fiscal year 1994. These include not only the activities of the Central Intelligence Agency, but also the intelligence activities of the Department of Defense, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Departments of State, Treasury, and Energy, respectively.

Because we were unable to get our bill to the floor until last week, the conferees have had to compress a lot of work into a very short period in order to return this conference report to the floor before adjournment. I want to thank Chairman GLICKMAN, Congressman COMBEST, and the other conferees on the House side for their cooperation. I also want to thank my friend and colleague, Senator WARNER, the distinguished vice chairman of the committee, and the members of our own committee, for the hard work they have put in on this. And, of course, none of this could have been achieved without the extraordinary efforts of the very capable staffs of both authorizing committees.

I think this conference report represents a very solid piece of work. While the funding levels for intelligence are classified by the executive branch, suffice it to say that this year's bill represents a significant reduction in terms of what had been requested by the administration. Last year, Congress cut the intelligence budget by 10 percent. This year we are essentially holding the line at last year's level. We simply cannot continue to take such severe cuts without seriously damaging our capabilities. This conference report takes a sensible, moderate course, which leaves the intelligence community with sufficient resources to do its important work. I commend it to my colleagues.

## SENATE ETHICS STUDY COMMISSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 173, a resolution to extend by 2 months the period by which the Senate Ethics Study Commission is to make recommendations to the Senate leadership, introduced earlier

today by Senator MITCHELL and the Republican leader, Senator DOLE; that the resolution be agreed to; and that the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 173) was agreed to, as follows:

*Resolved*, That S. Res. 111, which was adopted May 21, 1993, is hereby amended by striking "December 31, 1993" each place it appears and inserting "March 1, 1994".

## COMPREHENSIVE DRUG ABUSE PROGRAM

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1767, a bill to amend the Comprehensive Drug Abuse Program, introduced earlier today by Senators GORTON and LEVIN; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if given.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1767) was deemed read the third time and passed as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. LEVIN. Mr. President, today I am introducing legislation that will help curtail a new illegal drug sweeping across the Upper Peninsula of my home state of Michigan. The drug is called Methcathinone, commonly referred to as CAT.

CAT is a highly addictive drug and is a more potent stimulant than cocaine. CAT is made in illegal drug laboratories from ephedrine, an asthma medication that is available as a nonprescription over the counter drug. Other easily obtainable chemicals such as epsom salts, paint thinner, battery acid, and drain cleaner are part of the CAT production process.

The legislation I am introducing today, with my colleague Senator GORTON cosponsored by my colleague from Michigan and my two colleagues from Wisconsin, will stop the illegal use of ephedrine tablets in the production of CAT. It is important to note that this legislation has nationwide significance because ephedrine is also the primary drug used to produce methamphetamine, another potent illegal stimulant which is causing nationwide problems. Representative STUPAK recently introduced similar legislation in the House. The House is expected to vote on this legislation under the suspension calendar tomorrow.

Let me give you a little background on the problem. Michigan law enforcement officials believe the production of CAT first began in 1991. Since then, the problem has grown and is, unfortunately, highly concentrated in the Upper Peninsula. Seventy-five percent of the ephedrine sold in my home State goes to the sparsely populated Upper Peninsula. Since June 1991, 28 methcathinone laboratories have been seized. These labs were located in Illinois, Michigan, Washington, and Wisconsin. The Upper Peninsula Substance Enforcement Team [UPSET], a special unit which handles drug trafficking, has established a five-member unit which is solely dealing with the CAT problem. But even with this focused effort, CAT has begun to spread to Wisconsin and other States.

The Drug Enforcement Administration [DEA] is afraid CAT will spread like wildfire to other states since it is so easy to make and so addicting. We need to stop this drug before it spreads any further.

The main purpose of the legislation I am introducing is to reverse the "legal drug exemption" for ephedrine tablets. Because of a loophole in the Chemical Diversion and Trafficking Act of 1988, ephedrine tablets are exempt because they are an approved drug product under the Federal Food, Drug and Cosmetic Act. Ironically, ephedrine in powder form is not exempt from legal drug exemption and as a result is tightly regulated. My bill will mean ephedrine tablets will be treated in the same way ephedrine powder is treated.

My bill removes ephedrine products from the exemption and grants DEA the authority to remove the legal drug exemption from any other drug products which are diverted to use in the illicit production of controlled drugs. While ephedrine is the only current example of a legal drug being diverted for illicit purposes, if the bill only restricted ephedrine, drug manufacturers could simply combine ephedrine with other products to sidestep the new restrictions. To avoid additional future loopholes, this bill goes beyond restricting ephedrine and ephedrine combination products to ensure that other listed drugs contained in over-the-counter products do not quickly surface as a substitute for ephedrine to make the same type of illicit drug.

The bill also establishes a registration system for firms in the licit distribution chain for ephedrine and other listed chemicals that could be used in the production of illicit drugs to aid in the tracking of the sale of these products. The legislation establishes a registration system for distributors, importers, and exporters of listed chemicals, which are being diverted in the U.S. for the production of illicit drugs. Currently, there is a registration for firms distributing ephedrine powder over a certain threshold. Again, my bill aims to treat ephedrine tablets as ephedrine powder is treated. The registration system is modeled after the system that has been in use to register handlers of controlled substances for 20 years.

It is the DEA's position, with which I fully concur, that the Chemical Diversion and Trafficking Act of 1988 has demonstrated that chemical control and prevention are extremely effective methods of controlling illegal drugs in this country. This is why we must close the loophole for ephedrine tablets and modify the "legal drug exemption" of the Chemical Diversion and Trafficking Act which allows ephedrine tablets to be sold legally over the counter.

Although this type of prevention seems so simple, Congress has let a version of this bill die in the past because it was part of the larger crime bill that failed to pass last year. This year, Senator GORTON of Washington again introduced the Chemical Control Amendments Act, a more comprehensive bill that would control the diversion of a number of chemicals used in the illicit production of controlled substances, including ephedrine. Mr. President, as you know, it was again included as part of this years' crime bill.

That bill may again be delayed as part of the crime bill. But we cannot wait to deal with the CAT problem which is upon us now. We must pass this provision this year, as the House is doing, to move toward solving the ephedrine drug problem. I am introducing this bill to close the "legal drug exemption" loophole as it pertains to ephedrine tablets specifically—as well as other drugs which are illegally diverted for the Illicit production of contraband—because of the immediacy and urgency of the CAT problem.

I have a letter from the Administrator of the Drug Enforcement Administration supporting this legislation. It says "The Department [of Justice] and the DEA fully support your effort and will work with you to secure swift passage of this critical legislation during this Congress." I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER, with no objections, it is so ordered.

(See Exhibit 1)

Mr. LEVIN. We cannot stand idly by and let the restriction of ephedrine become bogged down in the debate over the crime bill. We must act quickly and address this problem head on. I am introducing this legislation in the hope that speedy passage will result in the cessation of the production of CAT which is particularly claiming victims in the Upper Peninsula of my home State of Michigan. Its poisonous effects will be felt throughout the country unless stopped now.

Mr. President, I urge my colleagues to join me in moving quickly to end this recent diversion of ephedrine to make illicit drugs. We need to stop this drug in its tracks.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
*Washington, DC, October 14, 1993.*

Hon. CARL LEVIN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LEVIN: I am aware of your concern about the illicit manufacture of methcathinone, ("cat" as it is called on the street), and the severe health consequences resulting from its abuse. Nowhere is this more true than in Michigan, especially on the Upper Peninsula.

Members of your staff have discussed how to address the "cat" problem with the Drug Enforcement Administration (DEA). The most effective method to lessen the supply of methcathinone is to sharply curtail the availability of ephedrine, a key chemical ingredient needed to manufacture the drug.

I understand that you will be proposing legislation that will address this issue. As you know, the Department of Justice supported a provision to this effect that was included in the Violent Crime Control and Law Enforcement Act of 1991. The Department and DEA fully support your efforts and will work with you to secure swift passage of this critical legislation during this Congress. I can also assure you that DEA will be working with the appropriate agencies to educate the public about the severe health effects caused by the abuse of methcathinone. Hopefully these efforts will reduce the demand for this illicit substance and will impact positively on the supply.

I look forward to working with you on this matter. I am confident that our efforts can successfully reduce the availability and abuse of methcathinone.

Very truly yours,

ROBERT C. BONNER,
*Administrator of Drug Enforcement.*

Mr. GORTON. Mr. President, I am delighted with tonight's passage of the Domestic Chemical Diversion Control Act of 1993 to control the diversion of certain chemicals used in the illicit production of controlled substances, and provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals. In short, this bill will provide law enforcement with the tools they need to combat the deadly spread of methamphetamine or "ice," and a relatively new illegal drug that is spreading called "cat" or methcathinone.

After years of effort, we have arrived at a noncontroversial proposal that is supported by Republicans and Democrats, chemical manufacturers, nonprescription drug manufacturers, the Drug Enforcement Administration, and local law enforcement agencies. Tonight's action could not have been possible without the bill's cosponsor, Senator LEVIN. Through his dedication to eradicate the vicious plague of methcathinone in Michigan's Upper Peninsula, we have expedited passage of this measure which is nearly identical to a measure which was incorporated into the crime bill which passed yesterday.

We are familiar with the devastating effect of crack cocaine on our society. Less known is the widespread use and destructive capability of "cat" and "ice"—which is to methamphetamine what crack is to cocaine. By many accounts, ice is far more devastating than crack and users are more violent. Users stay high for a longer period of time, usually from 16–18 hours, and sometimes for several days. Furthermore, "ice" can be produced almost anywhere, but most commonly in clandestine laboratories, known to many law enforcement officials as kitchens of death.

Over 80 percent of all clandestine laboratories seized involved the production of methamphetamine. The clandestine laboratory problem is one involving the production of synthetic drugs—that is, methamphetamine, amphetamine, LSD, PCP, et cetera—which are produced from precursor chemicals. A precursor chemical is one which is actually incorporated into the molecule of the final drug product. Ephedrine is a precursor for methamphetamine since it becomes part of the methamphetamine molecule and ephedrine is the most commonly used precursor used to produce methamphetamine.

From 1981 to 1988, the Drug Enforcement Administration reported a 400-percent increase in the number of seizures of clandestine labs. In late August 1989, the Chemical Diversion and Trafficking Act [CDTA] went into effect and this trend was immediately reversed. The Chemical Diversion and Trafficking Act of 1988 was the first comprehensive legislative effort by a major nation to control the diversion of chemicals as an element of its effort to deal with the illicit drug problem. The CDTA demonstrated that this is an effective approach to drug control which can be implemented with modest administrative burdens to Government and industry. Laboratory seizures declined to 521 in 1990 and to 375 in 1991. This decline has validated the effectiveness of chemical control as a law enforcement tool.

Two major weaknesses in the approach of the CDTA need to be remedied, however, if this success is to continue. The first is the legal drug exemption, set out at title 21, United States Code, section 802 (39)(A)(iv), which exempts a drug product which contains a listed chemical from the provisions of the act. The listed chemicals most affected by this provision are ephedrine, pseudoephedrine, and phenylpropanolamine, each of which is used in various over-the-counter [OTC] and prescription drug products.

Meanwhile, cooks, the operators of clandestine labs, continue to evade law enforcement and the spread of ice continues, particularly in the western United States. In their wake, these chemical drug lords leave destroyed lives, terrorized communities, and toxic remains. In fact, the health risks posed by the hazardous wastes of abandoned clandestine laboratories present nearly as serious a problem as the production of the drugs.

The plague of meth labs is due to the availability of legal chemicals that operators divert to produce illegal drugs. One option would be to treat these legal chemicals as controlled substances and forbid their production for any purpose. However, that would preclude the availability of the thousands of products that we take for granted every day. The challenge is to find a method to control the diversion of legal chemicals without affecting the commerce of valuable and legal over-the-counter products.

Specifically, the bill would provide for the following:

It eliminates the terms "precursor chemical" and "essential chemical" and replaces them with "list I chemical" and "list II chemical." This allows the DEA to focus control on the nature of the diversion and use of the chemical rather than its status as a precursor or essential chemical. It also allows the DEA to transfer chemicals between lists if circumstances warrant greater or lesser control. In addition, this section makes U.S. chemical control law consistent with international nomenclature, expands the definitions of "regulated person" and "regulated transaction" to include brokers and traders, and modifies exemption for chemical mixtures to be consistent with the 1988 U.N. Convention.

This bill also modifies the legal drug exemption. Specifically, it removes the exemption for products in which ephedrine is only active medicinal agreement in therapeutic amounts. The DEA may remove by regulation the exemption for other drugs containing listed chemicals if it is determined that they are being diverted. In addition, this section contains specific criteria for determining that a drug containing a listed chemical is being diverted. Finally, manufacturers may apply to retain exemption for specific drug products if they can demonstrate that the drug product is manufactured and distributed in a way which prevents diversion.

The measure provides for registration requirements for list I chemicals and applies to all distributors, importers, and exporters of list I chemicals. The requirements parallel those for registration to handle controlled substances. Those include the authority to revoke or deny based on public interest grounds as well as traditional grounds, immediate suspension in cases of imminent danger to the public health or safety, and criminal penalties for distribution, importation, or exportation without required registration. Registration is not required for distribution, importation, or exportation of drug products containing list I chemicals covered by the legal drug exemption.

It also provides for the reporting of listed chemical manufacturing. All

manufacturers will be required to submit annual reports on the total quantity of listed chemicals produced during the year. This reporting requirement does not apply to the manufacture of drug products containing list I chemicals covered by the legal drug exemption.

In addition brokers and traders are required to have the same recordkeeping and reporting requirements for international transactions as exporters and subjects them to the same criminal sanctions.

This bill also allows DEA to apply a target approach to export controls. Exports of some chemicals to certain countries—such as cocaine processing chemicals to the Andean countries—may be subject to 15-day advance notice even if the shipment is destined for a regular customer. Exports of some chemicals to certain countries—such as solvents to Canada—would not require 15-day advance notice even if the customer is not a regular customer.

This section also authorizes the DEA to reduce controls on the importation of specified chemicals by modifying or eliminating the advance notice requirement. A specific criminal penalty is added for individuals who attempt to evade reporting requirements by falsely claiming that a shipment is destined for a country for which a waiver of this requirement has been established. A specific criminal penalty for smuggling of listed chemicals is added.

Another section provides for administrative inspections and authority. DEA's inspection authority is presently limited to places where records required under the CDTA are maintained. This will expand this authority so that DEA will have the same inspection authority for listed chemicals as it presently has for controlled substances.

Obviously, this legislation when enacted into law will have a dramatic effect on the pursuit of meth lab operators and the destruction of clandestine laboratories. Indeed, perhaps it should be referred to as the "Ice Breaker Act of 1993." It is the culmination of years of effort, patience, dedication, and hard work by the Drug Enforcement Administration, the Chemical Manufacturers Association, and the Nonprescription Drug Manufacturers, and I commend them for their commitment to good public policy.

## STEWART B. McKINNEY HOMELESS ASSISTANCE REAUTHORIZATION ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 313, S. 1523, a bill to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1523) to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1235

(Purpose: To make technical amendments)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senators KENNEDY and KASSEBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) for Mr. KENNEDY, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 1235.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 5(a) of the bill, strike "11422" and insert "11432".

In section 5(b) of the bill, strike paragraph (3) and insert the following:

(3) in paragraph (2)—

(A) by striking "(2)" and all that follows in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (A) through (O) as paragraphs (2) through (16), respectively; and

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following new paragraph:

"(1) the provision of tutoring, remedial education services, or other education services to homeless children or homeless youths;"; and

Strike section 6 of the bill and insert the following:

**SEC. 6. JOB TRAINING FOR THE HOMELESS.**

(a) REPORT.—Section 736(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11446(a)) is amended by striking "the termination date specified in section 741" and inserting "the end of the last fiscal year specified in section 739(a)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of such Act (42 U.S.C. 11449(a)) is amended by inserting after paragraph (3), the following new paragraph:

"(4) Such sums as may be necessary for fiscal year 1994.".

(c) REPEAL.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1235) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## SOUTH AFRICAN DEMOCRATIC TRANSITION SUPPORT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3225, the South African Democratic Transition Support Act; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3225) was deemed read the third time and passed.

Mrs. KASSEBAUM. Mr. President, I rise today in strong support of H.R. 3225, the South African Democratic Transition Support Act. This legislation is nearly identical to a bill which passed the Senate on September 24, and I am pleased that the House of Representatives has acted on this important bill this session.

I would like particularly to commend Congressman JOHNSTON, chairman of the Africa Subcommittee, who sponsored H.R. 3225, as well as Congressman MFUME, chairman of the Congressional Black Caucus, who played an important and constructive role in drafting this legislation.

Mr. President, in 1986 Congress passed the Comprehensive Anti-Apartheid Act, overriding the veto of President Reagan. The debate over South African sanctions divided the Congress and much of the country. For many of us, the decision to impose sanctions was a difficult one. Sanctions are a blunt tool with questionable effects in most cases.

But I firmly believe that the situation in South Africa had reached the point where clear and firm international action was required. Attempts to influence the actions of the South African Government through diplomacy had had little impact. In fact, in late 1985 and early 1986, Pretoria appeared to be stepping up its policy of repression. At the time, I feared for the future of South Africa—which appeared on a path to civil war—and held little hope that lasting democratic change would come in my lifetime.

Yet, today South Africa stands on the brink of a new future. Nelson Mandela is free, leading the African National Congress in democratic elections planned for April 27. On Wednesday, South Africans finalized agreement on an interim constitution. This document will form the framework for a new South Africa, where basic human

rights and liberties are guaranteed for all people—regardless of skin color.

Mr. President, the legislation we are passing today repeals all the remaining Federal economic sanctions against South Africa. It rescinds the Comprehensive Anti-Apartheid Act. It ends United States opposition to IMF loans for South Africa, removes restrictions on Export-Import Bank lending, and allows South Africa to apply for preferential trade benefits.

Today the Congress sends a signal to South Africans. We welcome you back into the international community. The days of isolation and sanctions are over, and we stand ready, as partners, to support your efforts to create a new, democratic and nonracial nation.

The coming months stand as a critical testing period for the future of South Africa. I look forward to working with the administration and other Members of Congress developing a bold and creative United States policy toward South Africa which supports the democratic transition, particularly in the important period after the elections.

Mr. President, on Wednesday the chair of the constitutional negotiations, Justice Ismail Mohamed, poignantly expressed the hopes of all South Africans:

> The dawn has finally begun to break for a nation which has for so long so painfully and torturously wrestled with its own soul. No force can now stop or even delay our emancipation from the pain and the shame of our racist past.

## VEHICLE DAMAGE DISCLOSURE ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 324, S. 431, Vehicle Damage Disclosure and Consumer Protection Act of 1993; that the committee amendments be agreed to; that the bill, as amended, be read three times, passed; that the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any relevant statements appear in the RECORD appear as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 431) was deemed read the third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. GORTON. Mr. President, I am pleased that the Senate has passed S. 431, the Vehicle Damage Disclosure Act. I sincerely appreciate Senator EXON's willingness to include several provisions of legislation I introduced in his bill. While Senator EXON's legislation addresses the problem of salvage fraud head on, we have worked together to include provisions of my legislation, S. 1232, which addresses the equally menacing problem of lemon fraud. Together, I believe that these measures will go a long way in protecting the interests of America's used car consumers.

Used car fraud occurs because of a lack of uniformity in State titling laws. States typically brand the titles of vehicles which have been salvaged, or which have been deemed lemons. However, current law does not require States to carry forward these title brands from one State to the next. Whether or not these cars have been adequately repaired, scheming individuals can move these cars to a different State and get a new title free of the salvage or lemon title brand. In too many cases, unknowing consumers end up driving a car that may have serious problems which may endanger their safety. To make matters worse, consumers also end up paying more for these cars than they were worth.

S. 431 corrects this problem by requiring States to carry forward other States' salvage on lemon title brands. It will close the loophole which is allowing used car fraud to occur. In addition, this legislation contains an important provision which will require the Department of Transportation to draft minimum uniform standards for titles of content. S. 431 also requires the Department of Transportation to conduct a study on how to provide expanded consumer disclosure of lemon vehicles.

Our greatest safeguard against consumer fraud is education. When people are able to make decisions with all the facts and pitfalls in clear view, they are no longer defenseless, and certainly less vulnerable. The Vehicle Damage Disclosure Act will allow consumers to make informed decisions about their used car purchases—and importantly, it will combat the deceptive and menacing problem of used car fraud. I applaud the Senate's willingness to adopt this important legislation.

Mr. PRESSLER. Mr. President, I rise to express my strong support for S. 431, the Vehicle Damage Disclosure and Consumer Protection Act of 1993.

Every day, Americans unknowingly purchase new or used automobiles that have previously sustained structural damage. If repaired improperly, the consumer faces the risks of serious injury, or even accidental death, as well as increased economic burdens for medical expenses, automobile repair costs, and even legal expenses. To prevent such consumer fraud and personal risk, the damage history of vehicles should be made available to prospective purchasers.

Currently, there is no uniform national law requiring disclosure of major automobile damage when the title is transferred. As a result, many consumers own vehicles with fraudulent titles—titles that have been cleaned up to falsely reflect damage history. This is known as automobile title washing.

Title washing costs consumers nearly $3 billion each year. The root of this problem is simple: Each State treats damaged vehicles differently. With diverse State laws, car owners or sellers can transfer old titles interstate. The interstate transfer acts as a cleanser on auto titles—it cleans the slate so that the title no longer reflects previous damage. These clean titles put devious car dealers at ease, but put the car buyer at risk. S. 431 is designed to alleviate such fraudulent actions.

Mr. President, I want to commend the senior Senator from Nebraska, Senator EXON, for his leadership on S. 431, the Vehicle Damage Disclosure and Consumer Protection Act. S. 431 would ensure that prospective purchasers know what they are purchasing.

S. 431 would instruct the Secretary of Transportation to develop rules for State certificates of title to be branded for 'salvage', 'junk', 'reconstructed', 'rebuilt' or 'flood'. Further, S. 431 contains several provisions that I offered during committee consideration.

First, the Secretary of Transportation would be instructed to study and develop recommendations concerning whether, in order to maximize consumer protection, a disclosure of the dollar value of damage to a motor vehicle should be included on the certificate of title. To clarify, the dollar-based damage disclosure would be considered for cases in which the vehicle has not been declared a total loss nor has the title been previously branded for damage.

This provision is based on South Dakota's damage disclosure law, one of the most comprehensive automobile damage disclosure laws in the Nation. While I would have preferred the Senate was acting on my bill, S. 485, the Automobile Damage Consumer Protection Act, which also is based on South Dakota's damage disclosure law, I am confident that Secretary Pena will realize the importance of dollar-based damage disclosure. In my judgement, dollar-based damage disclosure provides necessary consumer protection and information to would-be vehicle purchasers.

Second, S. 431 contains a provision that instructs the Secretary of Transportation to prescribe minimum standards and procedures relating to the disclosure by a State on a vehicle certificate of title that a vehicle has sustained severe damage. The intent of the provision is to ensure that the structural damage to a vehicle that could affect that vehicle's safety or mechanical soundness would be disclosed on the certificate of title. Also, by prescribing minimum standards, we are acknowledging that some states, such as the State of South Dakota, already have developed comprehensive automobile damage disclosure laws.

Mr. President, consumers should be aware of a vehicle's prior structural damage in order to be able to make an informed purchase. Damage disclosure is an important factor in evaluating the value and safety of a vehicle, as well as deterring vehicle theft. In short, S. 431 would promote the safety—both economic and physical—of our traveling public.

## MEASURE READ FOR FIRST TIME—S. 1757

Mr. FORD. Mr. President, I understand that S. 1757 was introduced earlier today; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

bill (S. 1757) to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

Mr. FORD. Mr. President, I ask that the bill be read a second time.

Mr. MURKOWSKI. Mr. President, the Senator from Alaska must object.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time on the next legislative day.

## APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 102–521, appoints the following individuals to the Commission on Child and Family Welfare: James C. Dobson, of Colordado, Cynthia Gulley Wiedemann, of Texas.

## ORDERS FOR MONDAY, NOVEMBER 22, 1993

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 4 p.m. Monday, November 22; that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date; that the call of the Calendar be waived and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that immediately following the announcement of the Chair, the Senate proceed to a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT UNTIL MONDAY, NOVEMBER 22, 1993, AT 4 P.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand in adjournment until 4 p.m., Monday, November 22, as previously ordered.

The motion was agreed to, and at 10:04 p.m., the Senate adjourned until Monday, November 22, 1993, at 4 p.m.

## NOMINATIONS

Executive nominations received by the Senate November 20, 1993:

### DEPARTMENT OF ENERGY

CHARLES B. CURTIS, OF MARYLAND, TO BE UNDER SECRETARY OF ENERGY, VICE HUGO POMREHN, RESIGNED.

### EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM BOOTH GARDNER, OF WASHINGTON, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE MICHAEL H. MOSKOW, RESIGNED.

### DEPARTMENT OF JUSTICE

JANICE MCKENZIE COLE, OF NORTH CAROLINA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS, VICE MARGARET P. CURRIN, RESIGNED.

JAMES HOWARD BENHAM, OF IDAHO, TO BE U.S. MARSHAL FOR THE DISTRICT OF IDAHO FOR THE TERM OF 4 YEARS, VICE MICHAEL L. JOHNSON.

MICHAEL HAYES DETTMER, OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS, VICE JOHN A. SMIETANKA.

SAUL A. GREEN, OF MICHIGAN, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS, VICE STEPHEN J. MARKMAN, RESIGNED.

STEPHEN LAWRENCE HILL, OF MISSOURI, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF MISSOURI FOR THE TERM OF 4 YEARS, VICE JEAN PAUL BRADSHAW, II, RESIGNED.

ALAN D. LEWIS, OF PENNSYLVANIA, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF 4 YEARS, VICE THOMAS C. RAPONE.

RAIMON L. PATTON, OF TENNESSEE, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS, VICE CHARLES F. GOGGIN III.

JOHN MARSHALL ROBERTS, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS, VICE ERNEST W. WILLIAMS.

### DEPARTMENT OF STATE

ESTHER PETERSON, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 48TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

### U.S. INFORMATION AGENCY

JOHN P. LOIELLO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE DIRECTOR OF THE U.S. INFORMATION AGENCY, VICE WILLIAM P. GLADE, RESIGNED.

### DEPARTMENT OF TRANSPORTATION

T.R. LAKSHMANAN, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION, FOR THE TERM OF 4 YEARS EXPIRING JUNE 14, 1996. (NEW POSITION.)

### NATIONAL SCIENCE FOUNDATION

SHIRLEY MAHALEY MALCOM, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1998, VICE JAMES B. HOLDERMAN, RESIGNED.

### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

STUART E. WEISBERG, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 1999, VICE DONALD G. WISEMAN, TERM EXPIRED.

### DEPARTMENT OF DEFENSE

STEPHEN C. JOSEPH, OF MINNESOTA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ENRIQUE MENDEZ, JR., RESIGNED.

JOSHUA GOTBAUM, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE LOUIS A. WILLIAMS, RESIGNED.

RICHARD F. KEEVEY, OF NEW JERSEY, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF DEFENSE, VICE SEAN C. O'KEEFE, RESIGNED.

STEPHEN M. RYAN, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, VICE SUSAN J. CRAWFORD.

### DEPARTMENT OF THE TREASURY

MARY ELLEN WITHROW, OF OHIO, TO BE TREASURER OF THE UNITED STATES, VICE CATALINA VASQUEZ VILLALPANDO.

### FEDERAL EMERGENCY MANAGEMENT AGENCY

CARRYE BURLEY BROWN, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION, VICE OLIN L. GREENE, JR., RESIGNED.

### NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1994, VICE JAMES B. WERSON, TERM EXPIRED.

DANNY K. DAVIS, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1996, VICE JAMES C. KENNY, TERM EXPIRED.

### EXECUTIVE OFFICE OF THE PRESIDENT

FRED W. GARCIA, OF COLORADO, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE HERBERT D. KLEBER, RESIGNED.

ROSE OCHI, OF CALIFORNIA, TO BE ASSOCIATE DIRECTOR FOR NATIONAL DRUG CONTROL POLICY, VICE KAY COLES JAMES, RESIGNED.

### DEPARTMENT OF COMMERCE

PHILIP G. HAMPTON II, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS, VICE JEFFREY M. SAMUELS, RESIGNED.

SUSAN G. ESSERMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE ALAN M. DUNN, RESIGNED.

### U.S. INTERNATIONAL TRADE COMMISSION

LYNN M. BRAGG, OF MARYLAND, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2002, VICE ANNE E. BRUNSDALE, TERM EXPIRED.

### RESOLUTION THRIFT COMMISSION

ROBERT C. LARSON, OF MICHIGAN, TO BE A MEMBER OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD FOR A TERM OF 3 YEARS. (REAPPOINTMENT)

### NATIONAL LABOR RELATIONS BOARD

FREDERICK L. FEINSTEIN, OF MARYLAND, TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD FOR A TERM OF 4 YEARS, VICE JERRY M. HUNTER.

## CONFIRMATIONS

Executive nominations confirmed by the Senate November 20, 1993:

### DEPARTMENT OF STATE

ROBERT GORDON HOUDEK, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ERITREA.

MARK GREGORY HAMBLEY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

LESLIE M. ALEXANDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MAURITIUS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL AND ISLAMIC REPUBLIC OF THE COMOROS.

DAVID P. RAWSON, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

EDWARD P. DJEREJIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

VICTOR L. TOMSETH, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

THEODORE E. RUSSELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

NICHOLAS ANDREW REY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF

THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

EDWARD ELLIOTT ELSON, OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

MARC CHARLES GINSBERG, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

MARTIN L. CHESHES, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOHN F. HICKS, SR., OF NORTH CAROLINA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF COMMERCE

SUE E. ECKERT, OF RHODE ISLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

EXPORT-IMPORT BANK OF THE UNITED STATES

MARTIN A. KAMARCK, OF MASSACHUSETTS, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM OF 4 YEARS EXPIRING JANUARY 20, 1997.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DWIGHT P. ROBINSON, OF MICHIGAN, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JEANNE HURLEY SIMON, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997.

FEDERAL AVIATION ADMINISTRATION

LINDA HALL DASCHLE, OF SOUTH DAKOTA, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

MARTHA CRAIG DAUGHTREY, OF TENNESSEE, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

THOMAS M. SHANAHAN, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA.

DAVID G. TRAGER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

LAWRENCE L. PIERSOL, OF SOUTH DAKOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA.

DAVID W. HAGEN, OF NEVADA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.

CLAUDIA WILKEN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CALIFORNIA.

GARY L. LANCASTER, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

DONETTA W. AMBROSE, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

WILKIE D. FERGUSON, JR., OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

CHARLES A. SHAW, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

HARRY F. BARNES, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

REGINALD C. LINDSAY, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

PATTI B. SARIS, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

ALLEN G. SCHWARTZ, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

RICHARD G. STEARNS, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

RAYMOND A. JACKSON, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

JOANNA SEYBERT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

HENRY LEE ADAMS, JR., OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

SUSAN C. BUCKLEW, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

U.S. POSTAL SERVICE

EINAR V. DYHRKOPP, OF ILLINOIS, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2001.

U.S. INFORMATION AGENCY

MARIAN C. BENNETT, OF THE DISTRICT OF COLUMBIA, TO BE INSPECTOR GENERAL, U.S. INFORMATION AGENCY

DEPARTMENT OF LABOR

CHARLES C. MASTEN, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR.

DEPARTMENT OF STATE

NELSON F. SIEVERING, JR., OF MARYLAND, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

JOHN B. RITCH III, OF THE DISTRICT OF COLUMBIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS AND DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

POSTAL RATE COMMISSION

GEORGE W. HALEY, OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING OCTOBER 14, 1998.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING CURTIS WARREN KAMMAN, AND ENDING THOMAS W. YUN, M.D., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 5, 1993.

FOREIGN SERVICE NOMINATIONS BEGINNING BRUNO J. CORNELIO, AND ENDING RICHARD R. RIES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 21, 1993.

# HOUSE OF REPRESENTATIVES—*Saturday, November 20, 1993*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray for strength, O gracious God, strength to do our duty and to accomplish the works of justice and mercy. When we think of power we so quickly think of the power of the sword or the power of coercion or constraint. Remind us again and again, O God, of the power of the spirit, that spirit that allows people to stand above the common level of life, to walk through the valley of the shadow, to know and experience sacrifice and love, to forgive and be reconciled one with another. For the gift and the power of the spirit, we offer this prayer of thanksgiving and praise. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 914. An act to amend the Wild and Science Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes, and

H.R. 2650. An act to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the national wild and scenic rivers system.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 698. An act to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 24. An act to reauthorize the independent counsel law for an additional 5 years, and for other purposes;

S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes;

S. 1299. An act to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes;

S. 1670. An act to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes; and

S. 1685. An act to amend the Federal Deposit Insurance Act to permit the continued insurance of deposits in minority- and women-owned banks by the Bank Deposit Financial Assistance Program.

## CLINTON HEALTH CARE PLAN

(Ms. ESHOO asked and was given permission to address the House for 1 minute.)

Ms. ESHOO. Mr. Speaker, I rise as a proud original cosponsor of the President's health care plan which is being introduced today.

Our health care system is clinging to a life support system and needs intensive care—not cosmetic surgery.

The President's plan is an excellent place to start this operation.

It is time to move away from the NAFTA war room and into the health care delivery room.

With this in mind, I urge all my colleagues who are serious about health care reform—no matter which plan they support—to vote against the Penny-Kasich amendment.

By claiming over $40 billion in potential Medicare savings for deficit reduction, this amendment seriously damages any effort to overhaul the health care system.

The President's plan, the Cooper plan, the Chafee plan, and the Gramm plan all rely on savings in Medicare to pay for health reform.

So those who truly want health care reform and plan to support the Penny-Kasich amendment had better be prepared to raise taxes to pay for it.

Mr. Speaker, I urge my colleagues to defeat this misguided proposal. It is a turkey and it is Penny wise and Kasich foolish.

## AMERICAN AIRLINES FLIGHT ATTENDANT STRIKE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, American Airlines flight attendants are on strike. These flight attendants were told either take the deal or leave it. They were also told by American Airlines if you do not come back to work, and if you do not stop this strike you will lose your job and we will replace you. Understand?

Shame on Congress. Congress passes jobs bills for Mexico and unemployment bills for American workers. Congress passes free trade with Mexico and did not even address in that bill the striker replacement law that concerns the fears of the American workers. This is unbelievable.

Take it or leave it. That is the new workplace environment for the American worker.

Shame on Congress. Shame on the White House.

## AN ODE TO THE FIRST SESSION OF THE 103D CONGRESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, in the spirit of the coming holidays, I would like to comment a little on where I think we are in the House.

Mr. Speaker, twas the weekend before recess,
and all through the House
Not a reform was stirring, not even for the House,
The votes were hung by the well with care,
In hopes that Adjournment would soon be here,
We waited and worried, and wasted our time,
All with the expectation we'd do nothing on crime,
We ranted and raved and talked about cuts,
For we knew in the end, it would all be a bust,
On Kasich, On Penny, we heard on the air,
We need spending cuts, it would be only fair.
But the President and Speaker worked through the night,
The cuts must be stopped, for that they would fight.
And so in the end, as we all go on Vacation,
With the public quite tired of all our orations,
The question will be answered as it has in the past,
When it comes to cost cutting, the Majority does it last.

## PENNY-KASICH NOT A GOOD DEAL

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, you know in my 19⅓ years I have been in the Congress, my greatest fear is the end of any session of Congress, because we do some of the dumbest things.

Now the Penny-Kasich bill sounds good because we are cutting, and we all want to cut. But it does some things that just do not make good sense.

For instance, we are going to again cut in the administration of the Social Security. We are not doing continuing disability reviews as it is throughout the country, so we are going to again cut, and we are going to have fewer people doing the continuing disability reviews, and we are losing over $1 billion now because there are people collecting disability that are not entitled to. And we do not have the personnel to reach them. So at the front end of the disability system we are not processing claims. People are dying before we reach them. And at the back end of the system we have people, unfortunately, who are collecting disability that are not entitled to disability.

We are also cutting COLA's for employees once again. After we have promised them pension and COLA's, we are going to cut, we are changing the rules in midstream.

Finally, we are going to put older Americans' programs together with children's programs. I say to my colleagues, we are going to have the young and the old fighting over food and other things. We are not doing a very good job in providing resources for either program now, but we are going to create more of an intergenerational fight by putting those together.

It does not make sense. Vote against Penny-Kasich. It is not good policy.

## BRING PENNY-KASICH TO THE FLOOR

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I had a canned 1-minute I was going to read here this morning, but I don't think I will. I just want to say something to my good friend, the gentleman from New Jersey [Mr. HUGHES] whom I really respect. He said that everybody wants to cut the budget, but we cannot cut with Penny-Kasich because there are some bad things in that package.

But, Mr. Speaker, I will be leading a fight upstairs in the Rules Committee in about an hour to bring the Penny-Kasich bill down to the floor with an open rule. We Republicans want everybody to have their opportunity, including the gentleman from New Jersey, to take out of Penny-Kasich those cuts they do not like and put in other cuts they do like.

We all want to cut, the gentleman said, and I agree with him. And I know he is sincere. Let us bring Penny-Kasich down here under an open rule. We have nothing else to do today. We are going to sit around here treading water for about 8 hours doing nothing. We could really debate that bill, and we could have the House work its will and make some meaningful cuts.

A $250 billion tax hike was passed earlier this year, and now we evidently cannot cut spending by a measly $90 billion.

□ 1010

Something is wrong. Come on, join us. Let us bring it to the floor under an open rule, and let us debate it.

## VOTE ON EMERGENCY UNEMPLOYMENT COMPENSATION BEFORE ADJOURNMENT

(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, I rise today to strongly urge this House to vote on the emergency unemployment compensation conference report, before we adjourn this year.

In our initial vote on extending benefits, we voted wisely and compassionately to provide strength and hope to more than 8½ million people who search for jobs. Over 1 million are directly affected by this bill. But we have delayed over 5 weeks on final passage of these benefits that are emergency benefits.

This demonstrates unconcern for the families who will be sustained by these benefits while searching for work, and that is unacceptable. Over the next 2 months, without this bill, over 500,000 individuals will lose their benefits.

If we ignore our responsibility to vote on this bill, we will abandon jobless families, while we escape for a holiday.

As each of us sit down to a holiday meal, there will be thousands of jobless families whose benefits ran out weeks ago.

Do not ignore the families depending upon us. Let us vote on unemployment benefits extension before we leave.

## PENNY-KASICH

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, a vote on the Penny-Kasich amendment, which will cut $90 billion over 5 years, has been postponed until next Monday.

Apparently, the Democrat leadership is afraid this amendment might very well pass and be enacted into law. In fact, the White House is lobbying hard to defeat this amendment, which would cut only 1 cent on the dollar over the next 5 years.

Once again, the Democrats would rather cut spending last.

Well, Mr. Speaker, the American people are tired of business as usual. They want the Congress and the President to work together to cut Government spending first.

Unfortunately, the President would rather talk first, promise first, or spend first. He'd rather not cut spending first.

And now, the vote on the Penny-Kasich amendment is being delayed until the President can gear up his lobbying effort to derail this amendment.

Is this really what the American people want from their Government? I don't think so.

They want to cut Government spending first, not last.

## BRADY BILL DERAILED AGAIN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the filibuster did it again. How tragic to open this morning's paper and find that one more time the Brady bill has been derailed.

### PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman will state his parliamentary inquiry.

Mr. SENSENBRENNER. Is it in order to comment on proceedings in the other body?

The SPEAKER pro tempore. The gentleman's point is noted. Legislative proceedings can be referenced in this body about the Congress, but not characterizations of the other body.

The gentlewoman from Colorado may proceed.

Mrs. SCHROEDER. Mr. Speaker, this body took this issue on and realized how very important the waiting period really was. We sent it over, and we had hoped so much that that could happen.

I think it is very sad when we constantly see that you have to have a super-majority to get things through. There is no longer a regular majority that will do it.

That had been really part of the guts of what we were trying to do to get crime under control in this country, to put together this national network to be able to check people before they ran in and bought handguns.

Unfortunately, today we hear one more time that bill has been derailed.

## THE TOP 10 LIST

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, from the home office in Ottawa, Canada, the top 10 reasons the President opposes the Kasich-Penny spending cuts amendment:

No. 10. Starve a cold, feed a deficit.

No. 9. The deficit not really a big problem.

No. 8. Can't decide if it's Kasick or Kasitch

No. 7. I'm sick and tired of this bipartisan stuff.

No. 6. Penny here and Penny there, and pretty soon your talking real money

No. 5. AL GORE, what a guy.

No. 4. Won't support any document taller than his Labor Secretary.

No. 3. Joey Buttafuco.

No. 2. You weren't serious about this spending cut thing, were you?

And the No. 1 reason the President opposes the Kasich-Penny Spending cut amendment is:

No. 1. We don't need no stinking spending cuts.

## PASS THE BRADY BILL BEFORE THANKSGIVING

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, gun control and the Brady bill were mugged and assaulted last night. I am angry. I know that millions of Americans are just as angry.

In the dead of night, the NRA and their supporters have once again assaulted the will of millions of Americans; in the dead of night, filibustering the will of the American people; in the dead of night filibustering the safety of our children; in the dead of night, filibustering the wishes of our brave law-enforcement officers to be protected from the rampant guns that are throughout our society.

This is not a victory. This is a terrible defeat for our people, for our country, for our police, and the filibuster has prevented real votes from coming to the floor.

I would urge that this Congress stay in session until we can get a vote and send the Brady bill to the President's desk before Thanksgiving.

## TARGET THE REVOLVING-DOOR CRIMINALS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, law-enforcement officials and the American public want effective control of the thug, the criminal—8 percent or 9 percent of the crimes in this country are committed time and time again by the same recidivist, repeat offenders, violent offenders.

That is what law-enforcement officials and the American public generally want to see targeted in this anxiety to control crime. What the American public hates to see is a convicted criminal in court let loose and out on the streets again on a technicality. What the American public and law-enforcment writhe in their seats to see happen is a death-row resident time and time again appealing and preventing the ultimate justice.

The people and the law-enforcement officials hate to see three-time felons receive a spanking rather than life imprisonment. These are what we have to dwell on.

We must target the recidivist, revolving-door criminals and put them away for a long time to come. That is what law-enforcement officials and the American public want.

## PENNY-KASICH AMENDMENT IS UNFAIR

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, let us talk about hypocrisy and the Penny-Kasich amendment. Days after voting to spend tens of billions on the unfunded NAFTA agreement, and pledging to retrain workers who lose their jobs because of it, many NAFTA supporters are now calling for deficit reduction. They did not care to fund NAFTA; now they want to cut programs that help Americans. In the name of deficit reduction, they are willing to cut worker retraining programs by lowering the discretionary caps, and put the burden of that deficit reduction on the backs of working men and women.

We were told the Penny-Kasich cuts would reduce spending by over $100 billion: now we are told it is $90 billion. How did we get from $100 billion to $90 billion? I will tell you how, by playing the game the way its always been played in Washington. Things have not changed. They manipulated the numbers to gain public support, and cut deals to pull in votes. The result is unfair: when those deals were cut, they forgot the elderly, low-income families, and rural America. Once again, the average joe gets the short end of the stick, takes the hit from the cuts, and ends up paying more than his fair share.

## CUTTING GOVERNMENT SPENDING

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, in a few short days, the first session of the 103d Congress will come to a close. And I cannot help but wonder if my colleagues in the House who voted for the President's $275 billion tax increase earlier this year, are prepared to leave here without getting what the President and their leadership promised them for that vote—a substantial, meaningful cut in Federal Government spending.

It seems like only yesterday that the President's plan eked through the House by a mere two votes, and was then saved from the jaws of death by the Vice President himself. I still remember the worried look on the faces of those Members whose arms were being twisted to support the largest tax increase in American history. Members of this House were afraid of the reaction from people back home if they supported that massive tax hike. But they held their noses, and they voted yes for taxes, on the promise that they would get to vote for cuts later.

Well, to my colleagues, I say that time is almost up. And we have but one chance to make the kind of cuts that will do something about the deficit. Are you ready to leave this place without getting what you were promised?

If not, I urge you to call in your IOU from the President and your leadership, and join me in calling for immediate consideration of the Penny-Kasich spending cut package. It is the right thing to do, and your constituents will thank you for it.

□ 1020

## PENNY-KASICH: PASS REAL DEFICIT REDUCTION THIS YEAR

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, I will support Penny-Kasich when it comes to a vote. It is not all that I had hoped for, but it is this House's best chance to pass real deficit reduction this year. Its bipartisan approach to spending cuts will save the taxpayers more than $90 billion.

I am not prepared to stop with that; $90 billion is just a penny on the dollar and a small step toward solving our Nation's debt problem.

Mr. Speaker, that is why Congressman ROB ANDREWS and I are leading the bipartisan A to Z spending cut effort. When this House returns early next year, we intend to pursue a full-court press to make even more spending cuts; 234 Members joined in the A to Z effort by writing to the Speaker to ask for an open spending cut process this year. With the upcoming Penny-Kasich vote, we will at least be having another debate on spending cuts. But it will not be free, fair, and open debate on all spending cut proposals.

On Monday there will be 2 or 3 spending cut amendments permitted—even

though more than 10 times that many amendments were submitted to the Rules Committee.

I ask all 234 of you who joined with me in the A to Z Spending Cut effort in August to come together once again to push the A to Z Spending Cut legislation to the floor early next year. The House must be held accountable for its actions so that real deficit reduction can happen.

Vote "yes" on Penny-Kasich. And cosponsor the A to Z plan now so that real deficit reduction will happen when we return.

Let us stop adding $1 billion per day to our debt. It is time that we are held accountable for our Nation's future.

## SUPPORT PENNY-KASICH

(Mr. BUYER asked and was given permission to address the House for 1 minute.)

Mr. BUYER. Mr. Speaker, I rise here in support of the Penny-Kasich amendment and in great disappointment that we are not voting on it today but understandably, now, why. When everybody is out now sending out their mail to all of our offices, having the Department of Defense contact—having Jesse Brown of Veterans Affairs contact us and put in the scare and fear tactics now to different Members, saying it is going to be harmful to the Department of Defense, it will be harmful to veterans.

Well, I sit on the Committee on Armed Services and the Committee on Veterans' Affairs. Let me say unto Les Aspin: It is not harmful to the military, it does not wreck the military. "What you did earlier wrecked the military, $127 billion in cuts in the military without a risk assessment to national security; trying to put gays into the military; wrecking the operational tempo; sending our troops abroad in peacekeeping missions without proper support; that is what hurts the military, not the Penny-Kasich amendment." That is my strong message.

And to the veterans: We are answering the President's call for shared sacrifice, and I have not yet met a veteran who would not step forward and say, "I want to participate."

## LET US DO PENNY-KASICH NOW

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, someone observing the House today might wonder why so many Democrats are coming to the floor speaking out against spending cuts in the Penny-Kasich bill. Well, the real reason is that their leadership is suddenly afraid that spending cuts might actually pass this Congress.

So they are doing everything possible to torpedo that effort.

Now, middle-class America knows what its priorities are. Middle-class America has figured out that Government is too big and spends too much, and it wants something done about it. Their priority is to cut spending. This Congress does not want to cut spending. So Democrats come to the floor and they talk time and time again about why we cannot do it here and why we cannot do it now.

But let us understand what we can do here and now. Today on our calendar, we are going to pass, at least take up, the Fountain Darter Captive Propagation Research Act. We can do that, but we cannot cut spending.

On the calendar today we are going to take up the Winnow Run Chinook Salmon Captive Broodstock Act of 1993. Good heavens, we can do that but we cannot do Penny-Kasich.

We are going to take up the Nationality and Naturalization Act. We cannot do Penny-Kasich, but we can do the, yes, the propagation bill, that is right. Penny-Kasich we cannot do, but we can do the Propagation Act.

Then we can do the National Oceanic and Atmospheric Administration atmosphere and satellite programs authorization—you cannot even get these things out of your mouth. We are going to be doing those out here today, but Penny-Kasich and cutting spending, boy, we cannot do those.

I would suggest that if Congress wants to do something that the American people think is important, well, if we really want to do something middle-class America wants, let us cut spending, let us not do this stuff.

## WELFARE REFORM

(Mr. CASTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASTLE. Mr. Speaker, I have recently had the opportunity to be involved with an excellent group of Republican colleagues in preparing a comprehensive welfare reform proposal which 160 Republican Members have cosponsored. This bill defines welfare reform for the Nation as more work, less spending, dramatically greater flexibility for the States and restricted welfare for noncitizens.

While our bill is a logical extension of the family support act, it is in fact, and perhaps more importantly, an attempt to do nationally what has worked on the State level in Delaware. Just as Delaware's first step training program linked welfare assistance to academic, employment and life skills training, this bill requires the same and empowers individuals and families for that first step toward economic independence, and self-worth. More than 2,100 individuals have been able to use that experience as a foundation to greater self-reliance and self-esteem, 1,500 of whom have been able to leave welfare rolls entirely.

Our bill has other equally important provisions, from emphasizing the responsibility of fathers to support their children, to establishing tough new standards to combat illegitimate births, to ending welfare for most noncitizens and providing greater State control and flexibility. I look forward to working in the same bipartisan manner in which we dealt with NAFTA with my colleagues on the other side of the aisle and the administration on this crucial reform effort.

## SPENDING CUTS? "DON'T BE FOOLED"

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, "don't be fooled." There are now plans under way to beef up the President's deficit spending reduction package. The President has submitted about $2 billion of spending rescissions, and while originally touted as a $10 billion Government reinventing proposal, it has now been scored at $300 million. It has been suggested that the personnel cuts which are in the Penny-Kasich deficit reduction plan are now going to be added to the President's package. That might bring the total cuts in that package to somewhere in excess of $25 billion.

The key difference is that none of the cuts in that package will reduce the deficit by one dime. The caps are not lowered by that package, and therefore any cuts are free to be spent somewhere else. The only package to be debated and voted on, on Monday that will actually reduce the deficit is the Penny-Kasich plan.

"Don't be fooled," you cannot cut the deficit without cutting the deficit. Spending cuts that are spent somewhere else do not reduce the red ink.

Vote for the Penny-Kasich plan.

## WORLD AIDS DAY STAMP AT BRYANT COLLEGE

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, I rise today in recognition of Bryant College in Smithfield, RI. On December 1, 1993, World AIDS Day, Bryant will have the distinction of being the only site in Rhode Island, and the only college or university in the country to be designated an official U.S. Postal Station, for the purpose of issuing a special commemorative cancellation of the new AIDS Awareness Stamp.

The Centers for Disease Control [CDC] recently announced that AIDS is the leading cause of death among American men aged 25 to 44, and the

fourth leading cause among American women of the same group.

In 1990 the CDC found that 1 out of every 500 students tested positive for the HIV virus. Just this year, CDC found that 1 out of every 250 students tested positive for the HIV virus.

To quote Bryant College President William E. Trueheart, "AIDS does not discriminate. The HIV-virus that causes AIDS can strike anyone, regardless of income, age, gender, race, or sexual orientation. Young people are especially vulnerable, and we need to help them understand that they are at risk, despite their youth, health, and vitality."

Mr. Speaker, on December 1, 1993, World AIDS Day, Bryant will be the first school to unveil the World AIDS Day Stamp. Classes on that day will be devoted to discussions on the medical, social, and financial impacts of the AIDS pandemic.

Bryant has long been recognized for its outstanding reputation, providing one of the finest business education programs in the country. They are also to be applauded for their provision of health education, for their efforts to heighten awareness of AIDS, and for leading the effort to protect the men and women who will lead this country well into the next century.

□ 1030

## JAMES BROWN DAY

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, I rise and stand proudly today to recognize one of Georgia's 11th Congressional District's most celebrated and internationally enjoyed native sons, Mr. James Brown.

On Saturday, November 20, Mr. Brown will be honored in the bosom of his roots, on the streets where he once walked to school and shined shoes, with the naming of James Brown Boulevard in Augusta, GA.

This entertainment legend and soul singer has overcome diversity, seemingly insurmountable hardships, and is a crusader for pride across the world. As the hardest working man in show business, he has shed more than just flowing capes on stage and mesmerized audiences with fancy footwork.

Through a career that has spanned nearly five decades, Mr. Brown remains universal in his appeal and unequaled in his zeal. From humble beginnings he has defied the odds to reach the pinnacle of success. And because of him, everyone from little toddlers, to their grandmas, to Members of Congress—we can all say in the song titles of Mr. Brown, "I Feel Good," because "If You Open Up the Door I'll Get it Myself."

PROCLAMATION OF THE CITY OF AUGUSTA

Whereas, James Brown grew up and attended public schools in the City of Augusta, Georgia; and

Whereas, through his musical talent, James Brown has achieved national as well as international acclaim; and

Whereas, James Brown is an international celebrity known from Boston to Berlin; Augusta to Australia and Thomson to Tokyo; and

Whereas, James Brown is a musical phenomenon affectionately known as 'The Godfather of Soul'; and

Whereas, James Brown is one of our own and is proud to call Augusta his home, being involved in numerous community efforts; and

Whereas, we take great pleasure and pride in the renaming of Ninth Street to James Brown Boulevard.

Now, Therefore, I, Charles A. DeVaney, Mayor, City of Augusta, Georgia do hereby proclaim November 20, 1993 to be "James Brown Day" in the City of Augusta and urge all citizens to join in this observation and celebration.

In witness whereof, I have hereunto set my hand and caused the Seal of the City to be affixed this 19th day of November, 1993.

CHARLES A. DEVANEY,
*Mayor, City of Augusta, Georgia.*

## WOMEN AND ALCOHOL RESEARCH EQUITY ACT OF 1993

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to introduce a bill to enable the National Institute on Alcohol Abuse and Alcoholism to increase their research on women and alcoholism.

Alcoholism is a disease with gender specific effects. Some of these effects on women include the following:

The combined effects of estrogen and alcohol augment liver damage.

The death rate for female alcoholics is 50 percent to 100 percent higher than for male alcoholics.

Heavy drinking contributes to menstrual disorders, fertility problems and premature menopause.

For these and other reasons, it is critical that the NIAAA conduct research focused on women.

Women are approximately 50 percent of the total alcohol and drug dependent population, yet only 8 percent of the fiscal year 1992 NIAAA budget is allocated for research on women. This proportion is far too low to address the health needs of women and it is this problem my bill seeks to correct.

The Women and Alcohol Research Equity Act of 1993 will add $23,250,000 to the budget of the NIAAA, to be used solely for research on women.

I ask my colleagues to join with me in supporting this long overdue effort for women's health.

## DEFICIT REDUCTION HONESTY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, you have just to love, as my colleague, the gentleman from Ohio [Mr. STRICKLAND] said a moment ago, you have got to love the hypocrisy on Penny-Kasich.

Just this week, earlier in the week, three-fourths of the Republicans in this body said that we should agree to pass the North American Free-Trade Agreement with a price tag of $50 billion, tens of billions of dollars for border cleanup, environmental cleanup, all the restructuring at the border, all the investment at the border, $50 billion in unfunded NAFTA.

Now they want $100 billion cuts in the Penny-Kasich amendment.

I was speaking to a Republican right prior to the vote. I asked him how he was voting on NAFTA.

He said he was voting for it.

I said, "Are you going to vote for a $50 billion new Government program?"

He said, "Sure."

I said, "How are we going to fund it?"

He said, "That's your problem. You're in the Democratic majority."

That is the kind of hypocrisy that the Kasich-Penny amendment is. That is the kind of hypocrisy that voted for a $50 billion new Government program on NAFTA. That is the kind of hypocrisy that they brought to this Chamber.

Nothing has changed here in the last 8 months. This big freshmen class apparently did not make much difference.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman should refrain from such references to Members.

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. For what purpose does the gentleman from Pennsylvania rise?

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. The Clerk will report the words.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to withdraw the remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Reserving the right to object, Mr. Speaker, can we be certain—is the entire speech going to be withdrawn?

Mr. BROWN of Ohio. Only to delete the name of the Member. I stand by what I said. Everything else is hypocrisy.

Mr. WALKER. Well then, Mr. Speaker, I object.

The SPEAKER pro tempore. The Clerk will report the words.

□ 1040

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to withdraw

my remarks about individual House Members using the word "hypocrisy."

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Ohio?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today, but not before 1 p.m.

## COPYRIGHT REFORM ACT OF 1993

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 897) to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes, as amended.

The Clerk read as follows:

*H.R. 897*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Copyright Reform Act of 1993".*

***SEC. 2. DEPOSIT OF COPIES OR PHONORECORDS FOR LIBRARY OF CONGRESS.***

*Section 407 of title 17, United States Code, is amended as follows:*

*(1) Subsection (a) is amended by striking "(a)" and all that follows through "publication—" and inserting the following:*

*"(a) REQUIRED DEPOSITS.—Except as provided in subsection (c), the owner of copyright in a work or of the exclusive right of publication of a work in the United States shall deposit, after the earliest date of such publication—".*

*(2) Subsection (b) is amended—*

*(A) by inserting "DEPOSIT IN COPYRIGHT OFFICE.—" after "(b)"; and*

*(B) by adding at the end the following: "A deposit made under this section may be used to satisfy the deposit requirements of section 408.".*

*(3) Subsection (c) is amended—*

*(A) by inserting "REGULATIONS.—" after "(c)"; and*

*(B) by striking "Register of Copyrights" and inserting "Librarian of Congress".*

*(4) Subsection (d) is amended—*

*(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;*

*(B) by striking "(d) At any time after publication of a work as provided by subsection (a)" and inserting the following:*

*"(d) PROCEDURES.—(1) During November of each year, the Librarian of Congress shall publish in the Federal Register a statement of the categories of works of which the Library of Congress wishes to acquire copies or phonorecords under this section during the next calendar year. The Librarian shall review such statement annually in light of the changes in the Library's policies and procedures, changes in technology, and changes in patterns of publication. The statement shall also describe—*

*"(A) the types of works of which only one copy or phonorecord need be deposited;*

*"(B) the types of works for which the deposit requirements may be fulfilled by placing the Library of Congress on a subscription list; and*

*"(C) the categories of works which are exempt under subsection (c) from the deposit requirements.*

*"(2) At any time after publication in the United States of a work or body of works";*

*(C) by striking "Register of Copyrights" and inserting "Librarian of Congress";*

*(D) by inserting after the first sentence the following: "Such demand shall specify a date for compliance with the demand.";*

*(E) by inserting "in a civil action" after "are liable";*

*(F) in subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) by striking "cost of" and inserting "cost to";*

*(G) in subparagraph (C) (as redesignated by subparagraph (A) of this paragraph) by striking "clauses (1) and (2)" and inserting "subparagraphs (A) and (B)"; and*

*(H) by adding after subparagraph (C) (as so redesignated) the following:*

*"In addition to the penalties set forth in subparagraphs (A), (B), and (C), the person against whom an action is brought under this paragraph shall be liable in such action for all costs of the United States in pursuing the demand, including an amount equivalent to a reasonable attorney's fee.".*

*(5) Subsection (e) is amended—*

*(A) by inserting "TRANSMISSION PROGRAMS.—" after "(e)";*

*(B) by striking "Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials," and inserting "Librarian of Congress shall, after consulting with interested organizations and officials,"; and*

*(C) in paragraph (2) by striking "Register of Copyrights" and inserting "Librarian of Congress".*

*(6) Section 407 of title 17, United States Code, is further amended by adding at the end the following:*

*"(f) OBLIGATION TO MAKE DEPOSITS.—Immediately upon the publication in the United States of any work in which copyright subsists under this title, it shall be the obligation of the persons identified in subsection (a) with respect to that work, subject to the requirements and exceptions specified in this section, to deposit, for the use or disposition of the Library of Congress, the copies or phonorecords specified in such subsection. The obligation to make such deposit arises without any prior notification or demand for compliance with subsection (a).*

*"(g) RECORDS OF DEPOSITS.—The Librarian of Congress shall establish and maintain public records of the receipt of copies and phonorecords deposited under this section.*

*"(h) DATABASE OF DEPOSIT RECORDS.—The Librarian of Congress shall establish and maintain an electronic database containing its records of all deposits made under this section on and after October 1, 1995, and shall make such database available to the public through one or more international information networks.*

*"(i) DELEGATION AUTHORITY.—The Librarian of Congress may delegate to the Register of Copyrights or other officer or employee of the Library of Congress any of the Librarian's responsibilities under this section.".*

***SEC. 3. COPYRIGHT REGISTRATION IN GENERAL.***

*Section 408 of title 17, United States Code, is amended—*

*(1) in subsection (c)—*

*(A) in paragraph (1) by adding at the end the following: "The Register is also authorized to specify by regulation classes of material in which registration may be made without deposit of any copy or phonorecord, in cases in which the Register determines that the purposes of examination, registration, and deposit can be adequately served by deposit of descriptive material only, or by a written obligation to deposit copies or phonorecords at a later date."; and*

*(B) in paragraph (2) by striking "periodicals, including newspapers" and all that follows through the end of subparagraph (B) and inserting "collective works, including periodicals, published within a 5-year period, on the basis of a single deposit and application and upon payment of any special registration fee imposed under section 708(a)(10), if the application identifies each work separately, including the collective work containing it and its date of first publication."; and*

*(2) by adding at the end the following:*

*"(f) COPYRIGHT OFFICE HEARINGS.—Not later than 1 year after the effective date of this subsection, and at 1-year intervals thereafter, the Register of Copyrights shall hold public hearings to consider proposals to amend the regulations and practices of the Copyright Office with respect to deposit of works in order to eliminate deposits that are unnecessary for copyright examination or the collections of the Library of Congress, and in order to simplify the registration procedures.".*

***SEC. 4. APPLICATION FOR COPYRIGHT REGISTRATION.***

*(a) APPLICATIONS.—Section 409 of title 17, United States Code, is amended—*

*(1) by striking "The application" and inserting "(a) CONTENTS OF APPLICATION.—The application";*

*(2) in paragraph (5) by inserting before the semicolon the following: ", and if the document by which ownership was obtained has been recorded in the Copyright Office, the volume and page number of such recordation";*

*(3) by striking paragraphs (9) and (10) and inserting the following:*

*"(9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is substantially based on or substantially incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;*

*"(10) at the option of the applicant, names, addresses, and telephone numbers of persons or organizations that potential users of the work should contact concerning permissions or licenses to use the work, and any information with respect to the terms of such permissions or licenses; and"; and*

*(4) by adding at the end the following:*

*"(b) SHORT-FORM APPLICATION.—*

*"(1) USE OF SHORT-FORM.—The Register of Copyrights shall prescribe a short-form application which may be used whenever—*

*"(A) the work is by a living author;*

*"(B) the claimant is the author;*

*"(C) the work is not anonymous, pseudonymous, or made for hire; and*

*"(D) the work as a whole, or substantial portions of it, have not been previously published or registered.*

*"(2) CONTENTS OF SHORT-FORM.—The short-form application shall include—*

*"(A) the name and address of the author;*

*"(B) the title of the work;*

*"(C) the nationality or domicile of the author;*

*"(D) the year in which creation of the work was completed;*

*"(E) if the work has been published, the date and nation of its first publication;*

*"(F) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright; and*

"(G) at the option of the applicant, names, addresses, and telephone numbers of persons or organizations that potential users of the work should contact concerning permissions or licenses to use the work, and any information with respect to the terms of such permissions or licenses.".

(b) EFFECTIVE DATE.—The amendments made by this section take effect 6 months after the date of the enactment of this Act.

**SEC. 5. REGISTRATION OF CLAIM AND ISSUANCE OF CERTIFICATE.**

(a) DETERMINATION OF REGISTRATION.—Section 410 of title 17, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

"(a) DETERMINATION OF REGISTER.—If, after examination, the Register of Copyrights determines, in accordance with the provisions of this title, that there is no reasonable possibility that a court would hold the work for which a deposit is made pursuant to section 408(c) to be copyrightable subject matter, or the Register determines that the claim is invalid for any other reason, the Register shall refuse registration and notify the applicant in writing of the reasons for such refusal. In all other cases, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. A certificate of registration issued under this section extends only to those component parts of the work that both are the subject matter of copyright and the copyright owner has the right to claim. The certificate shall contain the information set forth in the application, together with the number and effective date of the registration.

"(b) APPEALS PROCEDURE.—The Register of Copyrights shall establish, and publish in the Federal Register, a formal procedure by which appeals may be taken from refusals under subsection (a) to register claims to copyright. Such procedure shall include a final appeal to the Register.".

(b) JUDICIAL PROCEEDINGS.—Subsection (c) of section 410 of title 17, United States Code, is amended—

(1) by inserting "EVIDENTIARY WEIGHT OF CERTIFICATE.—" after "(c)"; and

(2) by adding at the end the following: "Any error or omission made in good faith or upon reasonable reliance on counsel shall not affect the validity of the registration. In no case shall an incorrect statement made in an application for copyright registration invalidate the copyright.".

(c) TECHNICAL AMENDMENT.—Subsection (d) of section 410 of title 17, United States Code, is amended by inserting "EFFECTIVE DATE OF REGISTRATION.—" after "(d)".

**SEC. 6. COPYRIGHT REGISTRATION PROVISIONS.**

(a) REGISTRATION AND INFRINGEMENT ACTIONS.—(1) Section 411 of title 17, United States Code, is amended—

(A) by amending the section caption to read as follows:

**"§411. Registration and infringement actions for certain works";**

(B) by striking subsection (a); and

(C) in subsection (b)—

(i) by striking "(b)"; and

(ii) by striking paragraphs (1) and (2) and inserting the following:

"(1) serves notice upon the infringer, not less than 10 or more than 30 days before such fixation, identifying the work and the specific time and source of its first transmission; and

"(2) submits an application for registration of the copyright claim in the work, in accordance with this title, within 3 months after the first transmission of the work.".

(2) The item relating to section 411 in the table of sections at the beginning of chapter 4 of title 17, United States Code, is amended to read as follows:

"411. Registration and infringement actions for certain works.".

(b) REGISTRATION AS PREREQUISITE TO CERTAIN REMEDIES FOR INFRINGEMENT.—Section 412 of title 17, United States Code, and the item relating to section 412 in the table of sections at the beginning of chapter 4 of title 17, United States Code, are repealed.

**SEC. 7. REMEDIES FOR INFRINGEMENT.**

Section 504(c)(2) of title 17, United States Code, is amended in the second sentence—

(1) by striking "court it" and inserting "court in";

(2) by inserting "or eliminate" after "reduce"; and

(3) by striking "to a sum of not less than $200".

**SEC. 8. NOTIFICATION OF FILING AND DETERMINATION OF ACTIONS.**

Section 508 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "and the party filing the action" after "United States"; and

(B) in the second sentence by inserting "and the party filing the action" after "clerk"; and

(2) in subsection (b) by inserting "and the party filing the action" after "clerk of the court".

**SEC. 9. STUDY ON MANDATORY DEPOSIT.**

(a) SUBJECT MATTER OF STUDY.—Upon the enactment of this Act, the Librarian of Congress shall conduct a study of the mandatory deposit provisions of section 407 of title 17, United States Code. Such study shall place particular emphasis on the implementation of section 407(e) of such title with respect to the deposit of transmission programs, as well as possible alternative methods of obtaining deposits if the mandatory deposit requirements of such section 407 are expanded to authorize the collection, archival preservation, and use by the Library of Congress of other publicly transmitted works, including unpublished works such as computer programs and online databases.

(b) CONDUCT OF STUDY.—The study under subsection (a) shall be conducted by the Register of Copyright, in consultation with any affected interests, and may include the voluntary establishment, in collaboration with representatives of such interests, of practical tests and pilot projects.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Librarian shall submit to the Congress a report on the results of the study conducted under this section, together with recommendations the Librarian has on—

(1) safeguarding the interests of copyright owners whose works are subject to the mandatory deposit provisions referred to in subsection (a);

(2) fulfilling the present and future needs of the Library of Congress with respect to archival and other collections development; and

(3) any legislation that may be necessary.

**SEC. 10. STUDIES OF EFFECTS OF REGISTRATION AND DEPOSIT PROVISIONS.**

Upon the enactment of this Act, the Librarian of Congress, after consultation with the Register of Copyrights and any affected interests, shall commence a study of the extent to which changes in the registration and deposit provisions of title 17, United States Code, that are made by this Act have affected the acquisitions of the Library of Congress and the operations of the copyright registration system, and any recommendations the Librarian may have with respect to such effects. Not later than 3 years after the date of the enactment of this Act, the Librarian shall submit to the Congress a report on such study. The Librarian may conduct further studies described in the first sentence, and report to the Congress on such studies.

**SEC. 11. CONFORMING AMENDMENTS.**

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking the definition of the "country of origin" of a Berne Convention work.

(b) INFRINGEMENT OF COPYRIGHT.—Section 501(b) of title 17, United States Code, is amended in the first sentence by striking ", subject to the requirements of section 411,".

(c) REMEDIES FOR INFRINGEMENT.—Section 504(a) of title 17, United States Code, is amended by striking "Except as otherwise provided by this title, an" and inserting "An".

**SEC. 12. ADDITIONAL TECHNICAL AMENDMENTS.**

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—Title 17, United States Code, is amended as follows:

(1) The definition of "publicly" contained in section 101 is amended—

(A) by striking "clause" and inserting "paragraph"; and

(B) by striking "processs" and inserting "process".

(2) The definition of "registration" contained in section 101 is amended by striking "412,".

(3) Section 108(e) is amended in the matter preceding paragraph (1) by striking "pair" and inserting "fair".

(4) Section 109(b)(2)(B) is amended by striking "Copyright" and inserting "Copyrights".

(5) Section 304(c) is amended in the matter preceding paragraph (1) by striking "the subsection (a)(1)(C) and inserting "subsection (a)(1)(C)".

(6) Section 405(b) is amended by striking "condition or" and inserting "condition for".

(7) The item relating to section 504 in the table of sections at the beginning of chapter 5 is amended by striking "Damage" and inserting "Damages".

(8) Section 501(a) is amended by striking "sections 106 through 118" and inserting "section 106".

(9) Section 509(b) is amended by striking "merchandise; and baggage" and inserting "merchandise, and baggage".

(10) Section 601 of title 17, United States Code, is amended—

(A) in subsection (a) by striking "nondramtic" and inserting "nondramatic"; and

(B) in subsection (b)(1) by striking "subsustantial" and inserting "substantial".

(11) Section 801(b)(4) of title 17, United States Code, is amended by adding a period after "chapter 10".

(12) The item relating to section 903 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"903. Ownership, transfer, licensing, and recordation.".

(13) Section 909(b)(1) is amended—

(A) by striking "force" and inserting "work"; and

(B) by striking "sumbol" and inserting "symbol".

(14) Section 910(a) is amended in the second sentence by striking "as used" and inserting "As used".

(15) Section 1006(b)(1) is amended by striking "Federation Television" and inserting "Federation of Television".

(16) Section 1007 is amended—

(A) in subsection (a)(1) by striking "the calendar year in which this chapter takes effect" and inserting "calendar year 1992"; and

(B) in subsection (b) by striking "the year in which this section takes effect" and inserting "1992".

(17) The table of chapters at the beginning of title 17, United States Code, is amended—

(A) by amending the item relating to chapter 6 to read as follows:

**"6. Manufacturing Requirements and Importation ..... 601";**

*(B) by amending the item relating to chapter 9 to read as follows:*

***"9. Protection of Semiconductor Chip Products ..... 901"***;

*and*

*(C) by adding at the end the following:*

***"10. Digital Audio Recording Devices and Media ..... 1001".***

*(b) OTHER PROVISIONS OF LAW.—(1) Section 2319(b)(1) of title 18, United States Code, is amended by striking "at last" and inserting "at least".*

*(2) Section 1(a)(1) of the Act entitled "An Act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities", approved November 9, 1987 (17 U.S.C. 914 note), is amended by striking "orginating" and inserting "originating".*

*(3) Section 3(a)(1)(C) of the Audio Home Recording Act of 1992 is amended by striking "adding the following new paragraph at the end" and inserting "inserting after paragraph (3) the following new paragraph".*

***SEC. 13. EFFECTIVE DATE.***

*(a) IN GENERAL.—Except as provided in section 4(b), and subject to subsection (b) of this section, this Act and the amendments made by this Act take effect on the date of the enactment of this Act.*

*(b) PENDING ACTIONS.—The amendments and repeals made by section 6 shall not affect any action brought under title 17, United States Code, before the date of the enactment of this Act.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 897, the Copyright Reform Act of 1993.

H.R. 897 will bring much needed reforms in the copyright office's registration procedures. H.R. 897 will also strengthen the section 407 mandatory deposit provisions, which are an important source of copyrighted works for the Library of Congress.

The principal reform made by H.R. 897 is repeal of sections 411(a) and 412 of title 17, United States Code. Section 411(a) requires that United States authors, but not authors from countries that are members of the Berne Convention, register their works with the United States Copyright Office before bringing an infringement action. Section 412 conditions the award of statutory damages and attorney's fees on registration being obtained before an infringement occurs.

After 15 years experience with these two provisions, the Committee on the Judiciary concluded that they no longer represent good copyright policy. I agree.

Section 411(a) discriminates against United States authors, who unlike their foreign counterparts, have to go through the time and expense of preparing copyright registrations. In the case of software, a medium-sized software company may spend as much as $100,000 a year. This is wasted time and money. The section 408 deposit, typically the first and last 25 pages of redacted source code, is of no use as a record of the scope of the copyright owner's claim, and it is of no use to the Library of Congress, which wants the machine-readable version of the program.

Section 412, originally designed to provide an indirect way for the Library of Congress to receive deposits of copyrighted works, has been subverted into a defense raised by infringers in order to deprive copyright owners of what may be their only realistic economic relief, statutory damages and attorney's fees. In the words of the Association of American Publishers in a 1986 letter to the Register of Copyrights, section 412 has

> Become more of a shield for infringers than a benefit to anyone. Registration as a condition to statutory damages and attorney's fees in some cases, as one example, has become particularly problematic. Eligibility for such remedies has been an important ingredient in our copyright laws out of recognition that they may provide the only real hope of meaningful economic relief in infringement actions. A possible lack of eligibility for this relief has been the cornerstone of the tactics of even the most blatant infringers under the 1976 Copyright Act. Yet, the Copyright Office's proposed fee increase will undoubtedly force many authors and other copyright owners to forego regular registration, rendering their copyrights of little practical value against infringers who will be emboldened by the possibility that the infringed author or copyright owner will be unable to secure any real financial relief after engaging in expensive complaint, settlement, and litigation procedures. Particularly with the proposed fee increases, the 'inducements' will become obstacles to the protection of copyright.

The Committee on the Judiciary agreed with this assessment and so do I. H.R. 897 is designed to remedy the very real problems for copyright owners pointed out by the Association of American Publishers.

Repeal of sections 411(a) and 412 will also assist our trade negotiators as they attempt to discourage foreign governments from imposing formalities on U.S. works, formalities that may have the result of depriving U.S. authors of adequate and effective protection. H.R. 897 may be viewed as the "unfinished business" of Berne adherence, as it removes the last significant vestiges of formalities in our copyright law.

Technical measures like H.R. 897 may appear to be green eyeshade legislation to some, but this bill will have important, positive effects on our copyright industries. These industries form a vital part of our Nation's economic well-being. A report issued Monday by the International Intellectual Property Alliance indicates that in 1991 copyright industries accounted for $206.6 billion, about 3.6 percent of our gross domestic product, more than any other single manufacturing sector.

The annual growth rate of the copyright industries is more than twice the growth rate for the economy as a whole. The average annual rate of job growth in the copyright industries is more than three times that of the economy as a whole. Foreign sales of U.S. copyrighted goods are conservatively estimated at $36.2 billion, an amount that puts copyright industries third in exports, behind the aircraft and agricultural industries.

I would now like to discuss specific parts of the legislation, in addition to repeal of sections 411(a) and 412.

VOLUNTARY REGISTRATION WITH THE COPYRIGHT OFFICE

Section 408 of the Copyright Act currently provides for voluntary registration of a claim to copyright with the Copyright Office. Section 408 serves a number of purposes, two of which are related to the reforms proposed by H.R. 897.

One purpose of section 408 is to create a public record of claims of copyright and information regarding a copyrighted work, including its ownership and date of creation. Another purpose is to act as an indirect incentive to bring in deposits that the Library of Congress may wish to acquire. This indirect incentive is accomplished by various means, including giving a certificate of registration the status of prima facie evidence of the work's copyrightability and of the facts stated in the certificate; requiring registration in order to give a recorded transfer of copyright priority over subsequent, conflicting transfers; and the existence of section 412, which conditions the recovery of statutory damages and attorney's fees on registration prior to infringement.

The changes to the copyright Office's registration process include: First, a new short form application; second, a more liberal examination standard; third, alternative forms of deposit for copyright registration; fourth, a formal appeals process for refusals to register a claim to copyright; fifth, provisions clarifying when preexisting works have to be disclosed on the copyright application form in order to limit sharply the fraud on the Copyright Office defense; and, sixth, expansion of the group registration provisions.

OTHER COPYRIGHT OFFICE REFORMS

H.R. 897 also makes a number of changes designed to improve the Copyright Office registration system and the records of the Library of Congress. These include: First, amending section 410(a) to state explicitly that a certificate of registration only covers those parts of the work that are copyrightable and in which the copyright owner has a right to claim ownership and second, requiring the Register of Copyrights to hold annual public hearings on the section 408 deposit and registration requirements.

MANDATORY DEPOSIT WITH THE LIBRARY OF CONGRESS

The bill makes a number of changes to section 407 of title 17, United States Code, designed to strengthen and streamline mandatory deposit for the benefit of the Library of Congress. The changes include: First, clarifying that the obligation to deposit arises without any need for prior notification or demand; second, giving the Librarian rather than the Register of Copyrights authority over enforcement of the provision; third, permitting the Government to recover an amount equivalent to its attorney's fees if it has to bring suit to enforce its right to receive deposit copies; and, fourth, permitting section 407 mandatory Library of Congress deposits to be used to satisfy the deposit requirements of copyright registration under section 408.

The bill also directs the Librarian of Congress to publish an annual list of the types of works for which section 407 deposits will be sought and maintain a record and database of copies deposited under section 407. Finally, the Librarian is also directed to undertake a study to lay the foundation for the eventual expansion of section 407 to include works that are technically unpublished, but which are, nevertheless, publicly disseminated. In many cases, copyright owners do not retain this material and the Library of Congress will be the sole repository. The Copyright Act needs to be amended in order to ensure that the Library will receive these works. It is not feasible to do so immediately, though. There are many difficult issues to be resolved, some of which relate to the information superhighway and some of which relate to other concerns of copyright owners. These are real problems that cannot be solved overnight. They require study and experimentation.

MISCELLANEOUS ISSUES

H.R. 897 as reported by the Committee on the Judiciary deletes two provisions contained in the bill as introduced: First appointment of the Register of Copyrights by the President. This provision was in the bill in part because of a constitutional concern about the Register appointing and overseeing the arbitration panels, a concern which has been met by having the Librarian of Congress perform these duties; second, reversal of the National Peregrine decision has been dropped in order to study whether a single system of recordation of transfers applicable to copyrights, trademarks, and patents should be developed.

I urge my colleagues to support these needed reforms.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 897, the Copyright Reform Act of 1993.

This bill will bring needed reforms to the Copyright Office registration process while ensuring that the Library of Congress will continue to receive copyrighted works for its collections.

The copyright industries are the brightest of our domestic industries. American motion pictures, records, and computer programs are sought throughout the world. Over 5.5 million workers are employed by the copyright industries, or about 4.8 percent of the U.S. work force. Economists estimate that in 1992, foreign sales of copyrighted works were almost $40 billion dollars, an increase of 9 percent over 1991. We need to do all we can to encourage the growth of our copyright industries. H.R. 897 will help this growth by removing bureaucratic obstacles to the protection and enforcement of copyrights.

This bill is the product of the distinguished chairman of the subcommittee on Intellectual Property and Judicial Administration, the gentleman from New Jersey [Mr. HUGHES] as well as the gentleman from Massachusetts [Mr. FRANK] and the ranking Republican member of the subcommittee, Mr. MOORHEAD.

I commend the gentleman from New Jersey for his time in developing and perfecting this legislation and urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 897 and yield myself as much time as I may consume.

I want to thank the gentleman from Texas [Mr. BROOKS] for his support and scheduling H.R. 897, the Copyright Reform Act of 1993. I also want to express my appreciation to the gentleman from New Jersey for the time and consideration he gave the many concerns I had about this legislation and congratulate him on an excellent bill.

The most difficult concern I had related to the new, enhanced ability of photographers to sue if copyright registration is abolished. The subcommittee did hear during the second day of hearings complaints from photographers. Although the Copyright Office permit photographers to register 3,500 photos for one $20 registration fee, as a practical matter photographers don't usually register their photo. So if a family has its picture taken and the picture is copied by anyone other than the photographer who took the picture a copyright infringement suit could be filed by the photographers. That is the present law. However, as a practical matter most photos are not registered, therefore the photographers do not file suit against those people who have copies made of their photographs. Abolish registration and photographers would be more likely to file suit.

What I wanted to do to take care of this problem without taking away the copyright of the photographer would be to authorize the judge to reduce or remit the award of statutory damages and not permit any recovery of costs or attorneys fees.

Instead we are going to amend section 504 relating to the innocent infringers and permit the court to reduce the award of statutory damages to zero instead of "not less than $200." The gentleman from New Jersey [Mr. HUGHES] has agreed that strong report language on this issue is necessary so the parties and the court understand what our concerns are. And if it is abused by the photographers then we may need to correct it later.

Again I would like to commend the chairman for his hard work on this issue. I urge a favorable vote on H.R. 897 as reported by the committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I rise in support of H.R. 897, and would like to express my appreciation to the gentleman from New Jersey [Mr. HUGHES] and the gentleman from California [Mr. MOORHEAD] for their leadership and cooperation, and I was especially pleased what they did for the innocent infringer. I too, share a concern that we not unwittingly penalize innocent infringers. Thus, the committee's support for the amendment that removed a statutory minimum award in the case of infringement was a step in the right direction.

I offered an amendment in subcommittee which would have denied court costs and attorney fees in cases involving innocent infringement; however, I withdrew my amendment when the gentleman from New Jersey [Mr. HUGHES] assured me that the report language would reveal the committee was sympathetic to that position, and felt that section 505 presently gave the courts this option.

I raised my concern with innocent infringement by illustrating what could befall the photofinishing industry. Film processing companies as well as small independent photofinishers assure me that as a matter of policy, they honor copyrights and do not reproduce photos, slides, or other material which bears a copyright or studio name without the copyright owner's permission. Without some kind of marking, however, it is impossible for a photofinisher to know with certainty that a particular item is entitled to copyright protection.

That is why with the elimination of sections 411(a) and 412 and our earlier action to remove notice requirements, it is important that courts recognize their discretion to provide no statutory damages, costs, and attorney fees in appropriate cases. The report language can be found on page 10 of the report and reads as follows:

> Under this section, the courts already have the discretion to award an amount they believe appropriate, or no fees at all. Concern was expressed that with the repeal of Sections 411(a) and 412 of title 17, United States Code, litigation involving professional photographers may increase because of a failure to affix a copyright notice on the photograph, thus causing difficulties on the part

of individuals and photofinishers in determining copyright ownership. In cases where a court finds the defendant to be an innocent infringer, the Committee expects that the courts will not, in the usual case, award costs or attorney's fees.

I would like to again thank the gentleman from New Jersey and California for the guidance they provided, and I urge a "yes" vote on H.R. 897.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I would like to commend the Gentleman for his hard work and the diligence that he put into that report language and I want to him to know that I agree with what he has just said. We are concerned about similar problems. I am concerned about the consumer, the Mom and Pop, the little leaguer who may be an innocent infringer and you are concerned about them as well plus the small photofinisher who has no way of determining whether something he has been asked to reproduce is or is not copyrighted. I think what the gentleman has done will put the photographer on notice not to use this change in the law to harass these people and it will also assist the courts when they are asked to make a determination on the innocent infringer.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 897.

I too would like to commend the gentlemen from Texas [Mr. BROOKS] and New Jersey [Mr. HUGHES] and my good friend from California [Mr. MOORHEAD] and the gentleman from Massachusetts [Mr. FRANK] a cosponsor of the bill for their good work on this important legislation.

The main thrust of H.R. 897 is the abolition of the requirement in present copyright law which requires U.S. authors to register their work with the Copyright Office before they can institute an infringement action. This is considered a formality (registration) and inconsistent with the Berne Convention. We got around this formality in 1988 when we passed the implementing legislation for Berne by saying that foreign authors from Berne countries do not have to go through registration, only American authors need register. This obviously discriminates against U.S. authors, thereby placing them at a competitive disadvantage, with foreign authors who do not have to spend the resources to create deposits for Copyright Office examination purposes.

The Berne Convention implementing legislation became law in October 1988. That same year I had the honor of personally delivering those official papers to the Director General of the World Intellectual Property Organization Doctor Arpad Bogsch. The Copyright Subcommittee is presently working on the Madrid Protocol legislation H.R. 2129 that will create an international trademark registration system within the World Intellectual Property Association. Again, the individuals and businesses in the United States that rely on this type of protection for their creative works will reap substantial benefits as a result of having a new and stronger relationship with 95 additional countries. I hope we can move that legislation early next session.

I urge a favorable vote for H.R. 897.

□ 1050

Again, Mr. Speaker, the individuals and businesses in the United States that rely on this type of protection for their creative works will reap substantial benefits as a result of having new and stronger relationships with the 95 additional countries. I hope we can move that legislation early in the next session.

Mr. Speaker, I urge a favorable vote on H.R. 897.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

I take this time just to say, Mr. Speaker, that we had a very productive session in the Subcommittee on Intellectual Property and Judicial Administration, and that would not have been possible without the gentleman from California [Mr. MOORHEAD], who is my ranking Republican and partner. I thank him for the bipartisan effort with which we have conducted business in that committee.

Also, I commend the gentleman from North Carolina [Mr. COBLE] for his work on innocent infringers in particular. He has done yeoman work, and he has been a very valuable member of that committee. I commend also the gentleman from Massachusetts [Mr. FRANK] who was very helpful in passing this particular piece of legislation.

Mr. Speaker, I would also thank the professional staff. They have done a very good job on this and on other legislation during this past year. I am talking about Hayden Gregory, the chief counsel, and Bill Patry, as well as Jarilyn Dupont and Ed O'Connell of the professional staff on the majority side; and Tom Mooney and Joe Wolfe on the minority side.

It has been a great effort, and we have produced a lot of legislation because we have worked in a bipartisan fashion.

Finally, I want to thank the chairman of the full committee, the gentleman from Texas [Mr. BROOKS], and the ranking Minority member of the full committee, the gentleman from New York [Mr. FISH] for their work in making possible many bills that I think will make a difference both in intellectual property as well as in the area of judicial administration.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I really want to congratulate the gentleman from New Jersey [Mr. HUGHES] for the job he has done on this Subcommittee on Intellectual Property and Judicial Administration. We have worked together very closely. We have gotten out a lot of excellent legislation. I think we have helped the people of the United States with the job that has been done.

I agree with the gentleman that we have an outstanding staff that makes that possible. The staff is able to work together for positive results with the members of our committee. The staff members of both political parties have worked well together.

So I think the product we have come up with is better than what we would have had if either party had been working alone. We have been working as a team, and the legislation that has come out is beneficial for all and not just from a narrow point of view. So I want to congratulate the gentleman again for his work.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 897, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 17, United States Code, to modify certain registration requirements, and for other purposes."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on all the bills that will be coming up today from the Committee on the Judiciary to be considered under suspension of the rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## INTERNATIONAL PARENTAL KIDNAPING CRIME ACT OF 1993

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3378) to amend title 18, United States Code, with respect to parental kidnaping, and for other purposes.

The Clerk read as follows:

H.R. 3378

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "International Parental Kidnapping Crime Act of 1993".

**SEC. 2. TITLE 18 AMENDMENT.**

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

**"§ 1204. International parental kidnapping**

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

**SEC. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.**

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701–10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this bill. It fills a gap in our legal system that is causing torment for thousands of parents and innocent children.

Every parent knows the terror of not knowing where a child who is for even 5 minutes. Consider the thought of such a nightmare continuing for 5 months—or 5 years. That pain is beyond words.

Yet thousands of American parents are suffering that agony. They are partners in failed marriages who have legal custody rights to their children. But their former spouses have defied those rights, kidnaped their own children and taken them abroad.

Last year, more than 500 children were kidnaped from the United States and taken to foreign countries by parents who did not have the legal right to custody. The rate of these cases has increased in recent years. These kidnapings make life a living hell for the left-behind parent. They scar the kidnaped children for life.

Our State laws have proven to be all but useless in these cases. Most States punish parental kidnaping as a felony. But when kidnaping parents go overseas, they are virtually immune from domestic legal process. In practice, parent kidnapers who go overseas can thumb their noses at left-behind parents and at the separate State legal systems.

A Federal remedy is clearly needed. This bill provides that remedy. I commend the distinguished gentleman from Pennsylvania, Mr. GEKAS, for his persistent leadership in bringing this remedy before the House.

By creating a Federal felony offense, this bill will provide a strong Federal basis for the United States to request extradition of the kidnaping parent. It will deter kidnaping by making sure that parents who kidnap children and take them overseas will be pursued by the United States no matter where they go. And it will make clear to other nations that the United States considers parental kidnaping to a most serious offense.

I urge my colleagues to vote for this bill and help stop this horrendous practice.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes kidnaping of a child from his or her custodial parent, and then removing the child from the United States, a Federal felony.

More than 300 children are taken to live in foreign countries each year by a parent that does not have legal custody of the child. The State Department has recorded over 2,800 of these cases since 1975, but many experts believe that this figure is low. The actual number of cases may be closer to 10,000. The rate at which such kidnapings are increasing also provides cause for action. Since May 1983, the number of cases known to the State Department has jumped 84 percent. Both the parent deprived of custody and the abducted child suffer from the kidnaping. Some child psychologists believe that the trauma associated with an abduction of this kind, and the subsequent deprivation of one parent's love, is one of the most horrendous forms of child abuse.

Although the majority of the States punish this type of kidnaping as a felony, the Federal Government does not. The absence of Federal legislation denies the victim parent Federal assistance and allows the abductor to escape Federal prosecution.

Federal legislation is needed for at least four reasons. First, creating a Federal felony for this type of kidnaping should deter at least some parents contemplating abduction. Currently, the abducting parent can flee to safe havens around the world knowing that the United States will not pursue them.

Second, making these kidnapings a Federal crime allows the United States to request extradition of the kidnaping parent from those countries with which we have extradition treaties.

Third, Federal legislation strengthens the hand of the State Department when asking a foreign government to intervene and assist in the return of a child by arming U.S. Ambassadors with Federal warrants.

Finally, this legislation sends a strong message to the international community that the United States views child abduction as a serious crime that we will not tolerate.

In 1987, the U.S. State Department was little more than a legal referral service for parents whose children had been abducted. At that time the State Department would conduct a whereabouts and welfare search, and provide a list of attorneys working in the country to which the child had been taken. Victim parents could expect no additional help from the U.S. Government.

As the result of cooperation with a Congress increasingly sensitive to the cries of victim parents for help, the State Department implemented a number of significant improvements in the way it handles international parental child abduction cases. First, the Department established a unit within the consular affairs office to coordinate and direct action on these cases. Second, the Department assigned one person in each U.S. Mission around the world to be responsible for actively working on behalf of American parents to get these children back. This person

maintains a list of the cases in the country. Further, every U.S. Ambassador has been instructed to use every legal and diplomatic avenue available to achieve the return of abducted children.

In 1988, Congress passed implementing legislation for the Hague Convention on International Parental Child Abduction. As a result of this convention, the signatories will recognize the custody decrees of the other signatories, thereby facilitating the return of abducted children. Most countries, however, are not signatories to the convention, leaving individual countries to take whatever unilateral action they can to return abducted children.

SECTION-BY-SECTION

Section 1. Short title: International Parental Kidnapping Crime Act of 1993.

Section 2. Section 2 amends chapter 55 of title 18 of the United States Code, which governs kidnapping, by adding at the end a new section, section 1204 (to be codified at 18 U.S.C. section 1204), entitled "International Parental Kidnapping." This new section 1204 provides for the imposition of title 18 fines and/or a prison term of not more than three years on anyone who removes a child from the United States, or retains in a foreign country a visiting child who should return to the United States, with the intent of obstructing the lawful exercise of parental rights. Section 1204(b)(2) defines "parental rights" as the right to the physical custody of a child, whether that right is held solely or jointly, and whether the right is held by operation of law, a court order, or a legally binding agreement of the parties. Section 1204(d) makes clear that nothing in this section is to be construed as detracting from any of the provisions of the Hague Convention on the Civil Aspects of International Parental Child Abduction. Section 1204(b)(1) defines a "child" as a person who is under the age of 16.

Subsection (c) provides for affirmative defenses: flight from domestic violence, court order, circumstances beyond control. This last affirmative defense was the subject of some controversy at crime bill negotiations last Congress, held by staff of the House and Senate.

Section 3. Section 3 authorizes $250,000 for national, regional, and in-State training and educational programs dealing with the criminal and civil aspects of interstate and international child abduction by parents. To be administered through the State Justice Institute Act of 1984.

□ 1100

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding. I am most grateful to him personally for the review of the legislation which has just been accorded us by the minority, the gentleman from Wisconsin [Mr. SENSENBRENNER], and also prior to that by the gentleman from New York [Mr. SCHUMER].

Mr. Speaker, I also want to thank the gentleman from New York [Mr. SCHUMER] for living up to his pledge when, during a colloquy in the Committee of the Judiciary, I was concerned about the possibility of slipping over this particular legislation, simply because of the crowded agenda, where the gentleman personally and publicly stated that he would in good time call for passage of this legislation, which he did. That is what really has prompted the instant that we are now sharing in the passage of this legislation.

Mr. Speaker, this legislation has arisen because we have had many, many Members who have in one way or another suffered in their own districts the anguished cries of victims of international kidnapping. We have had instances just in the last 2 years arising in Illinois, Michigan, California, and New Jersey. By and large, the Members of Congress from those areas have converged over the last few years to help try to plug the loopholes, as the gentleman from Wisconsin [Mr. SENSENBRENNER] has articulated.

Mr. Speaker, we are here today, happy that at least the House will have completed its job in serving this particular need.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS], for yielding, and commend him for his leadership in bringing this bill to the floor at this time. This bill remedies some gaps in the United States Code pertaining to a tragic situation which too often occurs when a parent abducts and transports to another country his child or children, preventing the other parent from exercising the normal parental rights accorded by our courts. The removal of children to certain countries may even place them beyond the legal recourse afforded to them if the kidnaping were to occur within the United States.

Too often, we have found this problem to become a major, highly emotional burden to parents and to children.

Accordingly, we must make certain that penalties for this kind of crime adequately affect the degree of harm that is done to parents and to children. While it may be difficult to enforce the rightful custody over a child once he or she is abroad, I hope that the stiffer penalties this bill provides for anyone who attempts to flee this country with a child in an effort to abrogate the rights of the other parent, will help deter that kind of vicious act and avoid its tragic consequences.

Accordingly, I urge my colleagues to support the International Parental Kidnapping Crime Act, and help end this sad and tragic practice.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from New York [Mr. SCHUMER] and the ranking member, the gentleman from Wisconsin [Mr. SENSENBRENNER], of the Committee on the Judiciary for their outstanding work in bringing this measure back to the floor once again.

This is a measure that is long overdue and one that has given considerable problems to all of us throughout the Nation from time to time when there are spouses that run off with their children to foreign lands. This measure should help considerably to provide a proper remedy.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3378.

The question was taken.

Mr. SCHUMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## YOUTH HANDGUN SAFETY

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3098) to amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile, as amended.

The Clerk read as follows:

H.R. 3098

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS AND DECLARATIONS.**

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, funds, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by

exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

**SEC. 2. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGRUN OR AMMUNITION TO, A JUVENILE.**

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) OFFENSE.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply—

"(A) to a temporary transfer of a handgun or ammunition to a juvenile, or to the possession or use of a handgun or ammunition by a juvenile, if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) with the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in subparagraph (A)(i) is to take place, and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor;

"(C) to a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(D) to a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(E) to the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph:

"(5)(A)(i) A juvenile who violates section 922(s) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(s)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(s) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(s)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) of the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(d) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such person of section 922(s)" before the period at the end.

(2) SECTION 5032.—Section of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (s)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(s) of this title," before "criminal prosecution on the basis".

(e) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(s) of title 18, United States Code, or a similar State law)".

(f) MODEL LAW.—The Attorney General, acting through the director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

This bill is about two shocking words—kids and handguns.

Kids and handguns. Just think of what those words mean.

The sound of them together is like a slap in the face. Kids and handguns. The image is obscene.

What business do kids—what business do children—have with handguns? What kind of society permits death by handgun to be the leading cause of death among its male teenagers?

I know what the answer is from Queens, from Brooklyn, and from all of New York. My constituents are shouting that answer.

Their answer is that children have no business with handguns. No business.

They have no business being shot down on the steps of schoolhouses with handguns. They have no business killing adults with handguns. They have

no business growing up in fear that some other child will kill them with a handgun.

My neighbors in New York want this commerce in death among children stopped. And—make no mistake—they are not alone in their demands.

Mr. GLICKMAN's neighbors want it stopped. He heard their concerns, and I commend him for his leadership in bringing this important bill before us.

Your neighbors want it stopped, too.

And if you listen, you can hear a great balance turning in America. We in Congress had better understand that turning. A wave of anger and revulsion is building in every corner of America. When it reaches full tide, it will sweep over this Capitol and any party that stands in its way.

Because the American people are sick to death of violence. They are sick to death of seeing children kill and be killed with handguns. They are calling for an end to it.

This bill is one small, but important, answer to that call.

It closes a loophole in Federal law that permits the transfer of handguns to children, and the possession of handguns by children. At the same time, it permits a few carefully drawn exceptions that are seen to be necessary in some communities.

The wonder is not that this bill is before us. The wonder is that it has taken so long. The wonder is that anyone could vote against it.

I urge my colleagues to pass this bill unanimously and help end the long national nightmare of kids and handguns.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very historic moment in the House of Representatives that I hope no one will forget. The reason it is historic is that in this bill, both gun control groups and the National Rifle Association have come together to work out a bill that is very clearly in the public interest. I know of no other instance where there two groups, that have been at each other's throats on practically every other issue relating to firearms, are both on the same side. I think the reason for this is that there is a serious problem of guns with children, guns in schools, and guns being used by children to kill other children.

So what this bill does is it amends the Federal Criminal Code to prohibit two things: First, it prohibits the sale, delivery, or transfer to a juvenile of a handgun or ammunition that is suitable for use only in a handgun; and, second, the possession by a juvenile of a handgun or such ammunition.

There are some carefully crafted exemptions to this prohibition which include, first, when the handgun is used in target practice or in the course of employment, such as ranching or farming, hunting, or in the course of instructions under specified conditions, such a with the prior written consent of the juvenile's parents or guardian and with that consent in the juvenile's possession at all times and in accordance with State and local law.

Second, possession by a juvenile who is a member of the U.S. Armed Forces or the National Guard who possesses or is armed with a handgun in the line of duty.

Third, the transfer to a juvenile by inheritance of title.

Fourth, the transportation by the juvenile of an unloaded handgun under specified circumstances.

Fifth, self defense under specified circumstances.

Mr. Speaker, I think that these exemptions provide legal cover for the legitimate and lawful use of the handgun by the juvenile, while at the same time putting Federal criminal penalties on for use or possession outside of these exemptions.

I would like to commend specifically the gentleman from Kansas [Mr. GLICKMAN] for helping work out this compromise, as well as the senior Senator from my State of Wisconsin [Mr. KOHL] who worked on this issue in the other body.

This is responsible gun legislation, everybody says it is, and I would hope that this legislation would be speedily enacted into law.

Mr. Speaker, i reserve the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN], the head sponsor of this bill.

Mr. GLICKMAN. Mr. Speaker, first of all I want to pay special tribute to the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for taking the leadership on this and other crime and firearms-related legislation. In particular, I want to also commend my colleague from Delaware [Mr. CASTLE], the former Governor of Delaware, who has, along with me, at nearly the same time, got interested in this particular issue. I think Wilmington, DE, and Wichita, KS, two "W" cities, had similar problems with youth gun violence. So we got involved in this issue of kids and handguns, and I am appreciative that we have worked out a bill.

Mr. Speaker, first of all, I want to just briefly state, as the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] have said, the bill prohibits the transfer or sale of a handgun to a person under the age of 18, and it prohibits the possession of a handgun by a person under the age of 18 in most circumstances.

The bill makes some exceptions to the prohibition, for the use of a handgun in hunting, and I want to make that clear, hunting, target shooting, or a course of instruction in the safe use of a handgun. It also exempts the use of a handgun in ranching or farming operations or in the course of employment, where that is permitted under State or local law. We do not want to hamper legitimate sporting activities or the ability of teenagers to work on ranches or large farms and protect themselves from rattlesnakes or other particular problems.

□ 1110

With these limited exceptions, however, this bill does take care of a very serious problem of kids and guns. The gentleman from New York [Mr. SCHUMER] talked about these two awful words together, kids and handguns put together as a recipe, a chemistry for disaster. Let me add two more words to that list, "schools" and "gangs."

When we add kids, handguns, schools and gangs, we have a recipe for almost a revolution, automatic violence which is occurring in our society today. So we have put this bill together, along with a lot of organizations, as the gentleman from Wisconsin [Mr. SENSENBRENNER] said. Both the National Rifle Association and Handgun Control, the pro-gun groups and the anti-gun groups, got together because, in this case, we were dealing with a legitimate purpose to try to keep handguns out of the hands of kids, 13-, 14-, 15-year-old kids, who should not be possessing these things, who bring them to school in many cases. And right now there is a Federal law and most States do not have State laws governing this particular situation.

It truly is a matter of life and death to an entire generation that we begin to address the issue of kids and guns. Right now, the leading cause of death for both black and white teenage boys in America is gunshot wounds—more than car accidents, more than natural causes, more than anything else. Between 1985 and 1991 he arrest rate increased by 217 percent for 15-year-old males, and by 40 percent among 13- to 14-year-old males. We have got a crisis on our hands and it is time to work toward ending it.

Mr. Speaker, the Youth Handgun Safety Act of 1993 is designed to get the guns away from kids and the kids away from guns. It makes it a Federal crime to give or sell a youth under the age of 18 a handgun under most circumstances and it equally makes it a Federal crime for a youth under the age of 18 to possess a handgun under most circumstances. Right now, the Gun Control Act of 1968 only makes it illegal for a licensed gun dealer to give or sell a handgun to a minor. It totally ignores the very real situations where other people, like gang leaders, give or sell handguns to minors and where minors get hold of handguns. Well, I believe it is time we start addressing

these situations, and that is what this bill does.

Kids are carrying guns in every city in this country. It transcends race, gender, and income level. Everyone sitting here today has a school or schools in their district where guns have been found or used. I asked the school principals in my district what their experience was with guns and violence in their schools. The response was unequivocal—violence has increased in the number of incidents and the level of aggression. One principal in the Wichita public schools detailed an incident where a 14-year-old student put a pistol up against the principal's forehead because the student was unhappy with a decision to punish the student. That same principal told of finding a 13-year-old girl with a gun in her book bag who told the principal she brought it for a party after school, because "everyone knows you don't go to a party without a gun."

This is borne out by the statistics. U.S. News and World Report found that 270,000 guns are being brought to school every day in this country. What happened to the days where students were most afraid of pop-quizzes or hard tests? Our kids are being faced with playground disputes being settled with hallway shootouts.

This bill says enough is enough. Enough guns in our schools, enough guns being used on our kids, enough guns being used by our kids, enough violence and death.

In the other body, this measure passed unanimously, 100 to 0. The version we passed out of the Committee on the Judiciary is virtually identical to the language of the other body.

I have made, along with the gentleman from New York [Mr. SCHUMER], the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from Delaware [Mr. CASTLE], and others only a few organizational and technical changes to clean up the language of the other body that was added at the last minute on the Senate floor. I certainly hope we can move as decisively as they did.

Again, I want to add my thanks, particularly to the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for their leadership on crime issues.

Mr. SCHUMER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I also thank the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from New York [Mr. SCHUMER] for their great work in guiding this bill through the Committee on the Judiciary. I particularly thank the gentleman from Kansas [Mr. GLICKMAN], who has done an outstanding job of monitoring this issue, of recognizing the need to fill a hole in our laws which, it is astounding to me, in retrospect, has not been filled before.

This is a piece of legislation which is literally agreed to by every group that I know of, including the police, the NRA and everybody else, particularly the people of the United States of America, who believe that children should not have access to guns and be able to carry guns openly. The time for this to pass is long past due.

There is a tremendous proliferation in our streets of young people with guns, for a whole series of reasons that are very difficult, that need to be wrestled with as well. But the truth of the matter is that in some States the laws are so weak that a child, a 12-year-old, could walk down the main street of a city brandishing a handgun.

There are a lot of ways in which this can come to evidence. We see the intentional act of young children, who are becoming adults, who carry guns to commit crimes intentionally. We see accidents, because kids get hold of guns either in their homes or somehow out on the street, and they start to play with them and accidents happen. And young people, obviously, are less knowledgeable about what to do with respect to a gun.

We see it in the area of suicide. Would it happen if the gun had not been available? And we see it, and we are starting to see it more and more, in the concept of being a big man in the school, the high school, the junior high school, whatever it may be, or the defense, because you are concerned about somebody else.

It is astounding to talk to the individuals running our schools, the principals and the teachers across the United States of America, and to see the concern that they have with weapons, particularly with handguns, which are being brought to schools across the United States of America.

The gentleman from Wisconsin called this a historical moment, and it is in that this piece of legislation is supported by a lot of different groups who normally have not been together with respect to gun control. Everybody realizes that very young people in the United States of America should not have guns.

Let me say that this is not the only solution which we need across the United States of America. We have violence in our culture, particularly at a young age, which we have never seen before. And we need to address that in many ways.

We have a breakdown of our families in different parts of the United States, generally across the United States, which needs to be addressed to make absolutely sure that young people are being given the best opportunity. And clearly, our police and our courts do not have sufficient resources to carry out the responsibility of enforcing the laws which are out there which let some people perhaps think they have a latitude to violate those laws.

For all of these reasons, this piece of legislation is one which should pass here in the House, as it has in the other body. It is a Youth Handgun Safety Act.

It is time. It is long past due to have passed. Hopefully, today we can cure that problem.

Mr. SCHUMER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me. I congratulate the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] and the members of the staff and all the members of the subcommittee, which is a splendid subcommittee of the House Committee on the Judiciary, for the work they do and have been doing on gun control.

We are inching forward, Mr. Speaker. We are moving, regardless of the opposition, regardless of the tragedy of last evening, where the National Rifle Association was able to kill, for the time being, the Brady bill in the other body.

But I think the message to Sarah and Jim Brady should be, and to all people in this country who care so deeply, that we are going to get that bill passed. And we are moving forward on gun control.

Last night I watched on TV a program of scholarly people in Seattle from Singapore and from Japan talking about human rights. And they pointed out that, yes, they perhaps do not have the same care for constitutional rights and human rights as we do insofar as the rights of voting and discrimination on the basis of race and so forth.

But they have better human rights in some ways, at least in the streets of Singapore, Taiwan, Yokohama, and Tokyo. Their citizens can walk around with perfect safety, and they can go to sleep at night in their homes. They do not have their children wandering the streets with guns. As a matter of fact, I go much further than this bill. I do not know why we should not have laws in this country like those countries have and practically all of the countries in Europe that have a much lower crime rate than we do. I do not know why I should have a gun. There is no reason for it.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, perhaps the streets of Singapore are safe because they have the death penalty for drug possession there. Would the gentleman think that might be helpful?

Mr. EDWARDS of California. Mr. Speaker, I think the gentleman has

changed the subject to one of the things that he thinks will resolve all of the crime problems in this country. I strongly disagree with him. And all of these other countries, with the exception of Singapore, would disagree with him also.

But the gentleman from Kansas [Mr. GLICKMAN] deserves great credit. The gentleman from Delaware deserves great credit for this bill. We are moving forward. We must not drop the ball insofar as gun control and crime control in this country.

I would hope that after this Christmas recess that we could enact, with the cooperation of the other side of the aisle and our colleagues in the other body, a very progressive, strong crime bill that really can make some difference in this country, unlike the crime bills that we have enacted in the past.

□ 1120

With that I congratulate the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] again, and all of the members of the subcommittee. What they are doing today and have been trying to do the last few weeks is very commendable.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding the time.

Mr. Speaker, I too want to congratulate the gentleman from Kansas [Mr. GLICKMAN], the gentleman from New York [Mr. SCHUMER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] for bringing this legislation to us.

This bill deals with the problem of kids and guns: kids having, possessing, and using guns, and the awful results that too often follow. Our citizens are horrified by the stories of the number of guns in schools.

The bill will generally make illegal the possession by or transfer to juveniles of a handgun or handgun ammunition, and it makes sensible exceptions, barring language passed in the other body. Target shooting, firearm instruction, self defense are exceptions under specified conditions.

This bill, Mr. Speaker, shows how Congress can act without gridlock and act to address a very serious problem felt by all of our citizens. Lunch boxes, Mr. Speaker, are for lunch, not handguns.

Mr. SCHUMER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would simply like to say that I also would like to thank in addition to the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Delaware, [Mr. CASTLE], who is a lead cosponsor of this bill, and has done an excellent job not only on this bill, but so many rational laws on guns. And I think our whole Chamber on both sides of the aisle appreciate his leadership.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I am listening to this debate, and it is interesting, and of course it is true. Children having access to guns ought to be anathema.

But what about switchblades? When the guns are not around, we certainly have not dried up narcotics around schools and on the streets. But we pass a plethora of laws, and the crime statistics keep mounting.

Maybe there is something more radically wrong. Maybe we ought to start thinking about how do we get kids and adults to start respecting each other as fellow members of the human family, how do we sensitize people that other people are not targets or expendable commodities?

Why do we tolerate the mindset that made a laughing stock of our former Vice President because he expressed concern about broken homes? What made that kid want to put a gun next to the teacher's forehead?

We can take the fun away, but have we taken away the animus, the hatred, the antisocial attitudes of that kid? We have got to go deeper than this, folks, and I hope some of the heavy thinkers in this Congress are thinking about it.

Mr. SKAGGS. Mr. Speaker, I'm pleased today to support the Youth Handgun Safety Act. I commend Representatives GLICKMAN and CASTLE for the work they've done, along with Senator KOHL, in introducing this important legislation and moving it forward to this point. This is a sensible measure to begin keeping dangerous weapons out of the hands of our children and stemming the flood of violence on our streets.

We all know that youth violence is increasing across the Nation. Every day tells another story of innocent people—often innocent children—dying at the hands of youngsters wielding handguns and other firearms.

One important thing we can do is keep guns away from teenagers and children. There is simply no reason why a child should be able to get a gun without parental consent. You only need to watch the evening news in any town across America to see the damage that results when kids have unsupervised access to firearms.

The problem is only getting worse. In just 3 short years, between 1988 to 1991, deaths by gunfire doubled, homicides of teenagers tripled, and gang-related murders quintupled, according to Colorado Center's for the Study and Prevention of Violence. One in twenty high school students nationwide carries a gun to school, according to the Centers for Disease Control. Three out of four murders committed by juveniles is by gunfire, according to the FBI.

We simply cannot accept this. We must act now to put a stop to this madness.

The bill before us today is an essential first step toward getting handguns out of the hands of children across the United States. By prohibiting the transfer of any handgun to a juvenile without parental consent and the possession of handguns by juveniles in most circumstances—with exceptions for such reasonable activities as hunting and target shooting—we begin getting dangerous weapons out of the hands of youngsters.

As I say, this bill is a crucial first step. Many of us want to go further. Just last month, I introduced a bill, which has already been cosponsored by 28 other Members, that is more far-reaching in one major way—it applies to all firearms, not just to handguns. If it were possible today to offer amendments to the Youth Handgun Safety Act, the bill now before us, I would offer an amendment so that its prohibitions apply to all firearms. If we don't want children to have pistols, why should we let them have shotguns, rifles, or Uzis?

I believe there would be very strong support in this Chamber for this amendment. I recognize, however, that with just 3 days left before the House adjourns for the year, the only way to get the Youth Handgun Safety Act passed this year is to bring it before the House under suspension-of-the-rules procedures, which doesn't allow amendments to be offered to it. Because I think it is important to do what we can, as soon as we can, to begin getting dangerous weapons out of the hands of children, I support consideration and passage of the Youth Handgun Safety Act under this procedure. There will be opportunities next year to work to broaden the coverage of the legislation, and I will do so then.

Gun control, of course, is not the only solution. We must strengthen law enforcement, reduce drug use, improve our schools, and create more economic opportunity and hope. But the fabric of our society is being torn by gunfire, and we must stop it. We must give law enforcement officers the authority to get guns out of the hands of children and to lock up those who make money off the blood of our children—the ones who are selling guns to them. Let's pass the Youth Handgun Safety Act today.

Mr. SANTORUM. Mr. Speaker, today I rise in strong support of H.R. 3098, the Youth Handgun Safety Act voted on today in the House of Representatives. This bill closes a loophole in our Federal law which allows for the possession of a handgun by a minor or the transfer or sale to a minor by an unlicensed dealer. Currently, Federal law only applies to licensed gun dealers who sell or deliver a handgun to someone under 21. It does not address unlicensed dealers who sell or deliver handguns to minors or address the possession of a handgun by a minor. While some States have recently passed laws regarding possession by a minor, most States, including my own home State of Pennsylvania, have not.

Yet, while this bill takes an important first step in solving this problem, I believe that we must go further in our efforts to combat the rising tide of violence and gun used by children. That is why I have introduced the Juvenile Handgun Control Act of 1993, which would impose stiffer penalties regarding the possession of a handgun by a minor, and

most importantly, harshly punish the true criminals—the people who sell or give these guns to our children.

My legislation, like H.R. 3098, makes certain exceptions regarding possession by a minor, including hunting or parental consent, but it would go further by setting a three strike system. A first offense by a minor would be punishable by probation or detainment of not more than a year and a maximum fine of $10,000 or both. A second offense by a minor would be classified a juvenile felony and punishable by probation or detainment of 1 to 4 years or a maximum fine of $20,000 or both. Finally, the third offense would require that the minor be transferred to a district criminal court, tried as an adult and imprisoned for 1 to 4 years and fined a maximum of $50,000.

The bill I have introduced would also make it a Federal offense for a person to sell or transfer a handgun to a minor without the consent of the child's parent or legal guardian. It also calls for harsher penalties for someone who gives or sells a handgun to a minor who they know has been convicted of a crime of violence. This is the real problem that is plaguing our streets today, the accessibility of these guns for our children.

In order to make significant strides in making our streets safer, we must also punish the people who knowingly break the law and who are putting our children out on the streets and in our schools with deadly weapons. I am hopeful that in the second session of the 103d Congress, we will again address this important issue and work to secure stiffer legislation to protect our children.

Mr. HOAGLAND. Mr. Speaker, the level of violence on the streets of this country is intolerable. In my hometown of Omaha, people are dismayed by incident after incident of drive-by shootings, and children toting guns to school.

We are worried about our safety, and the safety of our kids.

One of the biggest problems in this escalating wave of crime and youth violence is the ready availability of handguns. We have got to get a handle on this problem now, or we risk letting it spin further out of control.

This bill will make it illegal under Federal law for a person under 18 years old to possess a handgun, and for anyone to knowingly transfer or sell a handgun to a juvenile. Our children should be involved in learning and growing, not fearing for their safety when they walk down the street or go to school.

I am pleased to say that this bill accomplishes the same purpose as H.R. 3406 which I introduced on October 28. At a news conference in Omaha, I expressed hope that this measure would pass the House this year; it now has done so.

As Attorney General Janet Reno said recently, there is no single answer to the problem of violence. It has to be a comprehensive effort. This bill, along with other measures that have passed the House this year like putting more police officers on the streets, and creating bootcamps for first-time offenders, are first steps.

I will continue working to rejuvenate a plan to make the areas in and around our schools gun-free school zones and to ban assault weapons so that our police officers are not outgunned on the street.

We all have to work together to get criminals off our streets and keep our neighborhoods safe.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3098, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## VACATING DEMAND FOR YEAS AND NAYS ON H.R. 3378, INTERNATIONAL PARENTAL KIDNAPING CRIME ACT OF 1993

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent to vacate the demand for the yeas and nays on the previous bill (H.R. 3378) to amend title 18, United States Code, with respect to parental kidnaping, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3378.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 324) to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision, as amended.

The Clerk read as follows:

H.R. 324

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

The Act may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

**SEC. 2. ESTABLISHMENT OF PROGRAM.**

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, or being placed on parole, supervised release, or probation.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(A) kidnaping of a minor, except by a parent;

(B) false imprisonment of a minor, except by a parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of a minor to engage in sexual conduct;

(E) use of a minor in a sexual performance;

(F) solicitation of a minor to practice prostitution;

(G) any conduct that by its nature is a sexual offense against a minor; or

(H) an attempt to commit an offense described in any of subparagraphs (A) through (G) of this paragraph, if the State—

(i) makes such an attempt a criminal offense; and

(ii) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following requirements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any changes of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the person of the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for investigative purposes or to government agencies conducting confidential background checks with fingerprints on applicants for child care positions or other positions involving contact with children.

(c) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which triggered registration in a State shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(d) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, or placed on parole, supervised release, or probation.

(e) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the guidelines issued under this section 3 years after the date of enactment of this Act may be reduced by 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield to myself such time as I may consume.

Mr. Speaker, a civilized nation has a duty to protect its children from those who would do them harm. They are our most precious yet vulnerable citizens.

This bill would require that persons convicted of certain criminal offenses against a child to register and maintain their address with law enforcement officials for 10 years after their release from prison. It is a helping hand to the States to aid them in preventing crimes against children.

I would like to thank my friend, the gentleman from Minnesota, Mr. JIM RAMSTAD, the author of this bill, for his diligent work on this issue. He has brought it to the attention of Congress and then doggedly pursued its passage here in the House, and has not let any obstacle overcome that. He deserves to be saluted, not only by the Members of this body, but by all of those parents of children who will be at less risk because this bill is passed. It is a matter of great importance to myself and to the gentleman from Minnesota, and to many of our colleagues in this House.

I would also like to thank Chairman BROOKS for his support in bringing this legislation to the floor today.

The only other point I would make, I would say to the gentleman from Illinois, Mr. HYDE, that I want to address just briefly something that he said, since this bill is sort of in that area. I think the gentleman is totally right, and I do not think we would find much disagreement from Members on this side of the aisle about the fact that families and family structure has been torn asunder in modern day America. We do not know all of the reasons why, and until family is somehow put back together we are going to continue to have these problems.

Our schools cannot teach us everything. Eighty percent or 90 percent of the useful knowledge I have received, and this is probably true of most of my colleagues, came from my two best teachers, my parents. These days we wonder if that is happening much in divided homes where we have so many children with no real family.

We have to work on it. The one problem, I would say to the gentleman from Illinois, is if we do not know what the solution is, and we really do not, because some say it is caused by affluence in our society, some say it is caused by a breakdown in values, but it is just very difficult to tell. But I would say to the gentleman that that does not mean that just as Members on that side of the aisle would criticize Members on this side of the aisle, we will not do tough laws until we get to the root of the cause of the problem, the same goes for gun laws and other things. Yes, there are serious problems as to why guns are used. That does not mean guns should be available in our society, and we cannot wait until we get to those root causes to say that children should not have guns, or that children should not be protected as in this bill that the gentleman from Minnesota has so wisely brought to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before arguing on why this bill should be passed, let me pay tribute to the gentleman from Minnesota [Mr. RAMSTAD], who has been single-minded in support of getting this bill through the numerous hurdles of congressional procedures set up. And the fact that this bill is on the floor today is tribute to his doggedness in identifying a problem that is of national scope, even though it arose as a result of a tragedy that occurred to one of his constituents, Jacob Wetterling, who was abducted and disappeared several years ago.

□ 1130

The reason this bill is so important is because of the high rate of recidivism in persons who have committed crimes against children, and it is not just sex crimes against children but all crimes against children. The recidivism rate is probably higher in this area of our criminal justice system or in violations of the criminal code.

So the first place that law enforcement looks when a child has been abducted or has been the victim of a crime which does not involve abduction is with the list of offenders that are within that community or within that area, and very often when a child is abducted, the person who has perpetrated this crime takes the child a far way away where law enforcement really do not know who is involved, so time is of the essence in law enforcement being able to track down known child offenders to see if they were involved in an abduction or another crime against a child.

Because there is not a national registry of people who have been convicted of a crime against a child and have served their prison time and have been paroled out, law enforcement really is not able to track down those who would be the prime suspect as quickly as possible. So that is why the Jacob Wetterling Crimes Against Children Registration Act is before us today.

This bill directs the Attorney General to establish guidelines for State programs requiring persons convicted of a criminal offense against a minor to register a current address with the designated State law enforcement

agency for 10 years after release from prison, parole, or being placed on supervised release or probation. It sets forth guidelines for this. It also allows for fingerprints to be taken and the information being placed both in State computerized identification systems as well as the National Crime Information Center computer networks. It provides that information provided under this act is private and may be used only for law enforcement purposes including confidential background checks by child-care service providers, so that way one of these folks who is registered would not be working in a day-care center or in another child-care service.

The stick that is contained in this bill to make sure that those States that have not established this type of a list is the fact that if 3 years go by and a State does not have such a registry, their Bureau of Justice assistance grants funds are reduced by 10 percent and allocated to those States that have done this job.

So I would hope that this bill would be passed quickly, that these registries would be established. It would be a tremendous tool for law enforcement as well as the child-care service providers to protect children, who are the most vulnerable and the most innocent victims of the terrible things that have been going on in our society.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. RAMSTAD], who is the principal author of this bill.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today we have the opportunity to address a serious and tragic problem in our Nation. We are considering legislation to protect young people from child sex abusers and abductors and to aid in their investigation by law enforcement.

The namesake for this bill is Jacob Wetterling of Saint Joseph, MN, who was tragically abducted from his home 4 years ago. Neither Jacob nor his abductor has yet been found.

Next to me are two photographs, Mr. Speaker, of Jacob, which I hope the camera will capture. The photo on the right is a computer age-progressed image of Jacob which gives us an image of how Jacob would look today. That is the photo on the right. The image was produced by the National Center for Missing and Exploited Children and, Mr. Speaker, I hope if anyone watching recognizes Jacob they will call 1-800-843-5678.

After working on this legislation for nearly 3 years, I wanted my colleagues to see the young man who inspired this legislation. Mr. Speaker, briefly, this bill would require individuals, as the gentleman from Wisconsin [Mr. SENSENBRENNER] so eloquently explained, individuals who are convicted of certain crimes against children to register and maintain their addresses with law enforcement for a period of 10 years after being released from prison or probation.

Currently 24 States have such sex offender, child sex offender registration statutes, but the Wetterling bill is needed to prod all States to enact similar laws and to provide for a national registration system to handle offenders who move from one State to another.

We know that child sex offenders are repeat offenders. They are probably the most difficult classes of criminals, in addition, to rehabilitate. A study of imprisoned child sex offenders found that 74 percent had a previous conviction for another child sex offense. Child sex offenders repeat their crimes again and again and again to the point of compulsion.

Another study showed that the average child sex offender molests 117 children. Fully two-thirds of the nonfamily child abduction cases reported to policy involve sexual assaults.

Mr. Speaker, how many children are we talking about? according to the Justice Department, over 114,000 children in America were targets of attempted abductions in 1988. While fortunately most attempts were unsuccessful, 4,600 children like Jacob disappeared.

Mr. Speaker, this week another youth in my congressional district disappeared. Tragically just yesterday this ninth grader was found shot dead next to the man who admitted earlier in the month sexually abusing him. The man was out on bail and had been ordered to stay away from the boy. We do not know all the facts yet, but it appears this was a murder-suicide.

Mr. Speaker, this is the most horrible of all crimes, and it is certainly every parent's nightmare.

While the Wetterling bill will not completely stop these heinous crimes, it will deter them and give law enforcement a very, very important tool for investigating these crimes.

Why is a registration law useful? The 1990 case of Arizona versus Lammie, the Arizona Court of Appeals, in upholding that State's registration requirement, provided an excellent summary of the merits of such legislation. Let me quote from that court opinion:

> Registration * * * Places a defendant on notice that when subsequent sexual crimes are committed in the area where he lives, he may well be subject to investigation. This may well have a prophylactic effect, deterring him from future sexual crimes. Furthermore it is a proper tool to be given to police officers for use in investigating criminal offenses.

Mr. Speaker, in conclusion I want to thank the chairman of the Crime and Criminal Justice Committee, the gentleman from New York [Mr. SCHUMER], for his tremendous assistance in securing passage of this important bill. For without the assistance of the gentleman from New York [Mr. SCHUMER], this bill would not be here today. The gentleman from New York [Mr. SCHUMER] understands the need for this legislation and has been a solid supporter of this bill from day one. I want to thank the other Members also who have helped on this bill, especially the chairman, the gentleman from Texas [Mr. BROOKS], the ranking member, the gentleman from New York [Mr. FISH], the gentleman from California [Mr. EDWARDS], and the gentleman from Wisconsin [Mr. SENSENBRENNER], ranking member of the Crime and Criminal Justice Subcommittee. It is truly a bipartisan bill, and it shows that Congress can work.

We took off our Republican hats, we took off our Democrat hats, and crafted good legislation in a bipartisan, pragmatic way. I also deeply appreciate the support of the other members of the Committee on the Judiciary as well as the excellent staff work of the subcommittee member staff and full committee staff.

Most of all I want to thank, Mr. Speaker, Jacob Wetterling's mother, Patty Wetterling. She has turned a family tragedy into a legislative crusade, first in the Minnesota legislature, and then in Congress. Patty Wetterling deserves most of the credit for passing this bill. She has worked tirelessly on this legislation. She appeared at the House Crime and Criminal Justice Subcommittee, and all members were moved by the compelling story of her beloved Jacob, and certainly that underscored the need for this bill here today.

Mr. Speaker, I ask all Members to vote for H.R. 324, the Jacob Wetterling bill.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER], one of the distinguished House leaders, the chairman of the Democratic caucus on our side, and a respected lawyer who has been of great assistance for many years to the Committee on the Judiciary in all of our work.

□ 1140

Mr. HOYER. I thank the distinguished gentleman from California particularly for his kind words. There is, as the gentleman knows and as Members on this House floor know, no Member that I respect more and have a greater affection for than the gentleman from California [Mr. EDWARDS]. He has always been a diligent fighter for the rights of all Americans. I thank him for his generous remarks.

Mr. Speaker, I am pleased to follow my friend from Minnesota Mr. RAMSTAD. I believe it is important for all Americans to know that this body does in fact respond to one individual who cares deeply and who has the best interests of our country at heart.

I congratulate Patty Wetterling of whom the gentleman spoke so eloquently for the efforts she has given.

In my own State of Maryland, you may have heard of Stephanie Roper. She was a young woman who was tortured, raped, and murdered. The Stephanie Roper Committee, founded by Roberta Roper, has been a major force and a strong advocate for the rights and concerns of crime victims.

Roberta has been one of the leaders in this effort and she wholeheartedly supports this legislation.

Mr. Speaker, I rise today in strong support of H.R. 324, the Jacob Wetterling Crimes Against Children Registration Act of 1993. Recently, Senator THURMOND and I cochaired the annual Boys and Girls Club breakfast. At that time, John Walsh, whom America knows as the host of "America's Most Wanted," spoke with me about this bill. He further stressed the need and importance of protecting our children. I am quite confident both Democrats and Republicans can agree this is a very important objective.

I commend Congressman RAMSTAD for introducing this legislation, which moves us in a positive direction toward eliminating abuse and exploitation of this Nation's children. I also, as he did, want to commend Chairman BROOKS and the gentleman from New York [Mr. SCHUMER], my good friend with whom I joined in the Class of 1980. I want to thank him for his leadership and tenacious fight to get this legislation out before we went home. He was instrumental in assuring this legislation made it to the House floor.

I also must recognize and commend HAMILTON FISH, and JIM SENSENBRENNER, who diligently worked to move this legislation forward.

Mr. Speaker, today we have the ability to do for our innocent children what the Brady bill does for innocent victims of gun violence. We can institute a background check on persons convicted of certain State criminal offenses against a victim who is a child.

Mr. Speaker, I speak as a father of three daughters and the grandfather of a 7-year-old grandchild. It is so important that we have a mechanism which allows us as parents, as grandparents, as guardians, and as friends of children, to immediately know about the people who are taking care of our children. We live in a society where parents are compelled, for economic reasons, to place their children in the hands of others.

We have heard many horror stories about day care providers and teachers sexually exploiting children. We have seen recent egregious examples of these unpleasant episodes in my own State of Maryland.

Perhaps some of these episodes could be avoided if employers had been given the opportunity to properly investigate the background of those who have the responsibility of caring for our children.

Mr. Speaker, this legislation can be used as a vehicle to begin the process of eliminating the exploitation of children. Because children are so very vulnerable in today's society, it is necessary to implement procedures which can adequately protect them. The statistics are frightening, and they must cause us all anguish and anger as we read about the incredible numbers of children abused daily in their homes, their schools, and social lives.

Mr. Speaker, we must do all we can to protect our children so that we can protect the America of tomorrow.

Once again, I want to congratulate Mr. RAMSTAD, the Judiciary Committee leadership, the committee members, and the staff for bringing this legislation forward. Finally, I want to thank John Walsh and the Stephanie Roper Foundation for bringing this matter to my personal attention.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to congratulate my colleague, the gentleman from Minnesota, on offering such an important and much-needed bill on child molestation.

All of us in Minnesota have been touched by the terrible tragedy of Jacob Wetterling, an 11-year-old boy who was abducted by gunpoint in St. Joseph, MN, over 4 years ago and has yet to be found.

Studies have shown that child sex offenders are some of the most notorious repeat offenders. By requiring child molesters who have been paroled or released from prison to register with State law enforcement officials, this bill gives society the right to know where these convicted offenders reside.

Mr. Speaker, registration is constitutional, has worked in many States, and will deter those who think about committing sexual crimes on our Nation's children.

This legislation is a necessary step in the right direction to reduce the crimes committed against innocent children like Jacob Wetterling. As the father of four children and the grandfather of three, I strongly support this legislation.

Mr. Speaker, I thank the gentleman again for yielding time to me.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH]

Mr. FISH. I thank my colleague for yielding this time to me.

Mr. Speaker, I find this a very moving debate. Truly, as Mr. RAMSTAD of Minnesota, its chief architect, has said, this, with which we are dealing here today, is every parent's nightmare. We need this bill because we know that child sex offenders, 74 percent of them have previous convictions for sexual offenses against a child. We know that fully two-thirds of nonfamily child-abduction cases reported to police involve sexual assault.

So what does this bill do? Well, in a nutshell, it requires individuals who have been convicted of certain crimes against children to register and maintain their address with law enforcement for a period of 10 years after they are released from prison or placed on probation.

Now, this information will be available to law enforcement and Government agencies conducting background checks on applicants for child-care positions.

It seems to me that this is a step that the Nation will applaud.

Mr. Speaker, the constitutionality of this matter was alluded to a moment ago, and I would just like to dwell on that a second because I believe this law is constitutional.

The courts have found either that registration is not punishment and therefore not subject to the eighth amendment or, if the courts do go through the eighth amendment analysis, that it was not considered cruel and unusual.

The courts have also rejected arguments based on due process, equal protection, privacy, and freedom to travel.

□ 1150

Mr. Speaker, I hope that the gentleman from Minnesota [Mr. RAMSTAD] will get a call at 1-800-843-5678.

This is a long-overdue piece of legislation.

Mr. HOBSON. Mr. Speaker, I rise in strong support of H.R. 324, the Jacob Wetterling Crimes Against Children Registration Act, which is similar to legislation I introduced earlier this year as H.R. 515, the National Child Abuser Registration Act of 1993. I believe that children are our most valuable resource and must be protected. Far too often, children are the most vulnerable citizens in our criminal justice system. According to the National Committee for the Prevention of Child Abuse, there were 2.7 million reported cases of child abuse in 1991, up from 2.5 million in 1990. Of those 2.7 million, 15 percent, or 405,000 involved sexual abuse.

H.R. 324 is needed to protect our children and to combat the serious problem of child abuse. This legislation would require criminals convicted of an offense against a minor to register their address with a State law enforcement agency for 10 years after release from prison. Also, the bill includes mechanisms for reporting the State registration of convicted child abusers to the Federal Bureau of Investigation's National Crime Information Center. This would enable child care providers to conduct confidential background checks on potential employees and volunteers, thus protecting children from being abused and victimized. By creating a national capability for screening child care personnel, we can ensure the protection of our children against repeat and interstate offenders.

According to the National Institute of Mental Health, the typical child sexual offender acquires multiple child abuse convictions. Seventy-four percent of all convicted child abusers are repeat offenders. In addition, the average child sex offender will molest an average of 117 youngsters in his or her lifetime. The sad fact is that many children are abused by those they know and trust, including child day care workers, pediatricians, child psychologists, and other professionals. Therefore, it is imperative that this legislation be passed and signed into law, to prevent crimes against children.

Mr. Speaker, I again urge timely passage of this legislation. The time has come for Congress, and the Nation as a whole, to take action to stop these horrifying crimes against our Nation's youth. We must protect our children today and in the future.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 324, as amended.

The question was taken.

Mr. SCHUMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 1425. An act to improve the management, productivity, and use of Indian agricultural lands and resources;

H.R. 3318. An act to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles;

H.J. Res. 75. Joint resolution designating January 16, 1994; as "National Good Teen Day"; and

H.J. Res. 294. Joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2535. An act to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf War.

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1268) entitled "An Act to assist the development of tribal judicial systems, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 412. An act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

The message also announced that the Senate had passed bills, a joint resolution, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 1501. An act to repeal certain provisions of law relating to trading with Indians;

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes;

S. 1732. An act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes;

S.J. Res. 140. Joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day";

S. Con. Res. 44. Concurrent resolution to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples; and

S. Con. Res. 50. Concurrent resolution concerning the Arab League boycott of Israel.

## NATIONAL CHILD PROTECTION ACT OF 1993

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1237) to establish procedures for national criminal background checks for child care providers, as amended.

The Clerk read as follows:

H.R. 1237

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Child Protection Act of 1993".

**SEC. 2. REPORTING CHILD ABUSE CRIME INFORMATION.**

(a) IN GENERAL.—In each State, an authorized criminal justice agency of the State shall report child abuse crime information to, or index child abuse crime information in, the national criminal history background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL HISTORY BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall, subject to availability of appropriations—

(A) investigate the criminal history records system of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line basis through the national criminal history background check system;

(B) in consultation with State officials, establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of criminal history records and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of each State timetable that the State—

(A) by not later than the date that is 3 years after the date of enactment of this Act, have in a computerized criminal history file at least 80 percent of the final dispositions that have been rendered in all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain a reporting rate of at least 80 percent for final dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve 100 percent disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of child abuse crimes.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall, subject to the availability of appropriations, publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal history background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State; and

(C) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

**SEC. 3. BACKGROUND CHECKS.**

(a) IN GENERAL.—(1) A State may have in effect procedures (established by State statute or regulation) that require qualified entities designated by the State to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether a provider has

been convicted of a crime that bears upon an individual's fitness to have responsibility for the safety and well-being of children.

(2) The authorized agency shall access and review State and Federal criminal history records through the national criminal history background check system and shall make reasonable efforts to respond to the inquiry within 15 business days.

(b) GUIDELINES.—The procedures established under subsection (a) shall require—

(1) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first provides a set of fingerprints and completes and signs a statement that—

(A) contains the name, address, and date of birth appearing on a valid identification document (as defined in section 1028 of title 18, United States Code) of the provider;

(B) the provider has not been convicted of a crime and, if the provider has been convicted of a crime, contains a description of the crime and the particulars of the conviction;

(C) notifies the provider that the entity may request a background check under subsection (a);

(D) notifies the provider of the provider's rights under paragraph (2); and

(E) notifies the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(2) that each provider who is the subject of a background check is entitled—

(A) to obtain a copy of any background check report; and

(B) to challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency;

(3) that an authorized agency, upon receipt of a background check report lacking disposition data, shall conduct research in whatever State and local recordkeeping systems are available in order to obtain complete data;

(4) that the authorized agency shall make a determination whether the provider has been convicted of, or is under pending indictment for, a crime that bears upon an individual's fitness to have responsibility for the safety and well-being of children and shall convey that determination to the qualified entity; and

(5) that any background check under subsection (a) and the results thereof shall be handled in accordance with the requirements of Public Law 92-544.

(c) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

(d) LIABILITY.—A qualified entity shall not be liable in an action for damages solely for failure to conduct a criminal background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity to take action adverse to a provider who was the subject of a background check.

(e) FEES.—In the case of a background check pursuant to a State requirement adopted after the date of the enactment of this Act conducted with fingerprints on a person who volunteers with a qualified entity, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed the actual cost of the background check conducted with fingerprints. The States shall establish fee systems that insure that fees to non-profit entities for background checks do not discourage volunteers from participating in child care programs.

**SEC. 4. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.**

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the child abuse crime records required under the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that, as of the date of enactment of this Act, have in computerized criminal history files the lowest percentages of charges and dispositions of identifiable child abuse cases, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this Act;

(B) for the improvement of existing computerized criminal history files for the purposes of this Act;

(C) to improve accessibility to the national criminal history background check system for the purposes of this Act; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal history background check system for the purposes of this Act.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1994, 1995, 1996, and 1997.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce, by up to 10 percent, the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 that is not in compliance with the requirements of this Act.

**SEC. 5. DEFINITIONS.**

For the purposes of this Act—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(3) the term "child abuse crime" means a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person;

(4) the term "child abuse crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the child abuse crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, or convicted of, a child abuse crime;

(5) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children by persons having unsupervised access to a child;

(6) the term "national criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(7) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(8) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services; and

(9) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this also is a bill that takes an important step forward in the protection of children.

The subcommittee held hearings on the issue.

The problem is that in child care providing centers there have been too many employees who have a criminal record, a criminal record for child abuse. It is very important that these records be available, and it is very important that the States pass laws requiring child care providers to check and find out before they hire someone as to whether or not this applicant for a job has a record of conviction for

criminal activity. Lots of these people travel all over the country, and unless there is a systematic check made by these individual child care centers, or what ever it might be, one or more of these people could be employed and do great damage to innocent children.

The testimony that we heard was very disturbing. There is a real need.

I believe there are 30 or so States that already have systems set up. We want to encourage the other States, all States, to have systems so that these records are available to the child care providers.

We are very grateful to Ms. Oprah Winfrey, the celebrated artist that we see on television, for her enthusiasm about the bill. She did some lobbying here. It was very helpful, and of course, everybody else who worked so hard on the bill. The gentleman from Illinois [Mr. HYDE], was enormously helpful, and the author of the bill, the gentlewoman from Colorado [Mrs. SCHROEDER].

This bill will encourage the States to adopt laws requiring criminal history record checks for child care providers. We have looked into this very carefully. We have balanced the protection of children against the due process rights of individual job seekers. We made sure that it is a fair bill.

The bill includes timetables for the States to comply, and it provides authorization for funding to help States do the computerization and the necessary work to get ready for these records.

We worked closely with the gentleman from Florida [Mr. CANADY] who was very helpful.

We received the unanimous support of the subcommittee.

Mr. Speaker, I urge approval of the bill.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to extend firm and full congratulations to the subcommittee chairman, the gentleman from California [Mr. EDWARDS] for a bill like this, which indeed is a companion bill to the Ramstad bill which we just debated shortly ago and will pass later in the day.

Important legislation like this does not pass without a lot of work by staff and Members. The chairman has made this a particular interest of his, for which we are all grateful.

Numerous studies have shown that individuals who have sexually or physically abused children in the past are more likely to do so in the future. That is why it is important to make sure that adults who take care of children, including those who volunteer their time, do not have a record of child abuse or other crimes.

The purpose of the National Child Protection Act is to keep adults who have a record of child abuse from being put into a position of trust with children. It requires States to report information on child abuse to the Federal Bureau of Investigation and authorizes States to require qualified entities to perform a national background check to determine whether an individual has been convicted of a crime that bears upon an individual's fitness to have responsibility for the safety and well-being of children. The bill authorizes grant money to States to improve their criminal history records and provides due process protections to insure that any information obtained in the background check is accurate and complete.

I want to thank the chairman of the Judiciary Committee, Mr. BROOKS, and the chairman of the subcommittee, Mr. EDWARDS, for expeditiously bringing this legislation to the floor. In addition, appreciation should be expressed to Jim Dempsey, assistant counsel to the Subcommittee on Civil and Constitutional Rights and Keri Harrison, counsel to Mr. CANADY for working to get the bill into a form that we hope can be considered by the other body prior to adjournment.

I also want to thank an individual who is the motivating force behind this legislation, my fellow Chicagoan, Oprah Winfrey. Almost 2 years ago, she visited every member of the Committee on the Judiciary, urging us to enact legislation to protect children from predatory abusers. Unfortunately, the provision was held up in crime legislation that was stalled due to controversies on other issues. I know the process must have been frustrating to her, but I thank her for her persistence and am pleased that we are passing this legislation prior to adjournment.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the ranking Republican member on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding this time to me. I will be brief.

Mr. Speaker, we have a duty in this Nation to insure that the children who are put in the care of adults in schools, in Boy Scout troops or at day care centers will not become unwilling prey for child sexual abusers. The National Child Protections Act will keep adults who have a record of child abuse out of positions of care for our children.

The heart of the bill requires qualified entities to perform a national background check to determine whether an individual has been convicted of a crime that will affect an individual's fitness to take care of children.

Mandating registration by those convicted of child abuse will provide the data for the national background check. This is, therefore, a companion bill to the one we just recently considered here.

The bill, importantly also, authorizes grant money to the States to improve and update their criminal history information files.

Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from California [Mr. EDWARDS], and the ranking member, the gentleman from Illinois [Mr. HYDE] for their leadership on this issue.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. PETE GEREN].

Mr. PETE GEREN of Texas. Mr. Speaker, I thank the chairman for yielding this time to me. I appreciate it very much.

Mr. Speaker, I rise in strong support of the National Child Protection Act of 1993. It is a very important companion bill to the bill that was introduced by the gentleman from Minnesota [Mr. RAMSTAD].

I am sure that every Member of this Congress has a tragic story from his or her district in which a child was tragically abused, molested, or even murdered. The area that I represent is no different.

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Recently, Mr. Speaker, a little girl in Plano, TX, was abducted from an athletic field, a soccer field, and murdered north of Dallas, TX. This little girl was whisked away somehow in the presence of many other children. Her body was found abused and murdered a couple of miles away. The person who has been arrested and charged with this murder had a long record of child molestation charges. As a youth he had committed rape and had gone to the youth detention center in our State. As an adult he had done the same and had served time. He was out on parole, and he committed this terrible murder.

Mr. Speaker, one of the discoveries that was made in the effort to try to identify who had committed this crime:

The police studied all of the videotapes that were taken by other parents that day of the playground, of the soccer field, and they looked and examined these in great detail, tried to identify everybody that was in this picture or in these pictures that they put together. Ironically and tragically they swept this crowd and identified many people who were in supervisory positions of children. They found a number of people who had been convicted of sex offenses against children who were in supervisory positions for children on that playground that day.

Mr. Speaker, I think that points up very dramatically the need for this particular bill. None of the people that they identified on that field were involved in this crime, but they found some suspects by surveying this field, people who this bill would have screened out, people who this bill would have kept from ever holding a supervisory position over children anywhere in this country, and I commend the chairman for this bill and for this work in putting it together.

Mr. Speaker, there are many people who have expressed concerns about perhaps a bill such as this violating the privacy of people who have been convicted of a crime such as this sort. I say the moment those people were convicted of a crime they have lost all their rights to privacy and the protection of our children becomes paramount, and this bill will go many steps forward in helping us to root out these people who should never ever be in a position of supervision over children in this country.

Mr. Speaker, I urge our colleagues to support this bill, I look forward to its passage and the implementation of the procedures called for, and I again thank the chairman for his diligent effort in helping to address this critical need in protecting our children.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER], the author and chief sponsor of the bill.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California [Mr. EDWARDS] for yielding this time to me, and I must say how very pleased I am this bill is finally here.

Mr. Speaker, when I first got elected, over 20 years ago, one of the first bills I introduced was dealing with child abuse, and from that day forward I have always been terribly concerned about how everything else in the society seems to have a much higher priority than children. We talk one way, but we act an entirely different way. We all say they are our treasures, we all say we are family oriented, child oriented, and yet, when we look at the laws on the books to protect automobiles, to protect anything we could think of, they are much tougher than those dealing with children.

This is one of the things I think will give many young working parents a tremendous amount of relief. They know now they have to be in the workplace, in many instances, in order to just keep up in this new global marketplace that we have, and yet trying to find a place where they feel secure in leaving their children is one of the most frightening things I think any young parent can face. There are horror stories that we have seen of people who have preyed on this situation and been able to move across State lines, get employment, and then do damage to children, and it is just something we have unbelievably tolerated all this time.

So, Mr. Speaker, I am very pleased today that this bill is coming to the floor, and I also want to say that all of us, I think, want to thank Oprah Winfrey because she has not only talked about this issue, but worked very hard on this bill, made all sorts of house calls trying to push on this bill, and she has not done the typical celebrity thing of just doing a glitzy show. She has really gone around talking to people one on one to get this bill where it is today which I think shows her dedication of trying to move this forward, too.

So, I think it is very apropos that we pass this right before the holiday period, and let us hope that everything that can possibly be done will be done to fast-forward this so that we finally begin to catch up in this tremendous gap on how we treat property versus how we treat children, and I think the gentleman from California [Mr. EDWARDS] for moving this to the floor, and I think all the other committee members who brought it up today.

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 1237, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization, as amended.

The Clerk read as follows:

H.R. 783

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Nationality and Naturalization Amendments of 1993".

**SEC. 2. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP FOR CHILDREN BORN ABROAD.**

(a) IN GENERAL.—Section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended—

(1) by striking the period at the end of paragraph (g) and inserting "; and", and

(2) by adding at the end the following new paragraph:

"(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United Sates of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.".

(b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) RETROACTIVE APPLICATION.—The immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though such amendment and such subsection had been in effect as of the date of their birth. However, the retroactive application of the amendment and provision shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934, 48 Stat. 797).

**SEC. 3. EXPANDING WAIVER OF THE GOVERNMENT KNOWLEDGE, UNITED STATES HISTORY, AND ENGLISH LANGUAGE REQUIREMENTS FOR NATURALIZATION.**

(A) IN GENERAL.—Section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended—

(1) by inserting "(a)" after "312.",

(2) by striking "this requirement" and all that follows through "That" the second place it appears,

(3) by striking "this section" and inserting "this paragraph", and

(4) by adding at the end the following new subsection:

"(b)(1) The requirements of subsection (a) shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

"(2) The requirement of subsection (a)(1) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, either—

"(A) is over fifty years of age and has been living in the United States for periods totalling at least twenty years subsequent to a lawful admission for permanent residence, or

"(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsection to a lawful admission for permanent residence.

"(3) The requirement of subsection (a)(2) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.".

(b) CONFORMING AMENDMENTS.—Section 245A(b)(1)(D) of such Act (8 U.S.C. 1254a(b)(1)(D)) is amended by striking "312" each place it appears and inserting "312(a)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.

**SEC. 4. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.**

(A) IN GENERAL.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follow:

"CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

"Sec. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof

to the satisfaction of the Attorney General that the following conditions have been fulfilled

"(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

"(2) The child is physically present in the United States pursuant to a lawful admission.

"(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

"(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

"(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totalling not less than five years, at least two of which were after attaining the age of fourteen years—

"(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

"(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

"(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

"(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 341 of such Act (8 U.S.C. 1452) is repealed.

(c) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 322 is amended to read as follows:

"Sec. 322. Child born outside the United States; application for certificate of citizenship requirements.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than one hundred twenty days after the date of the enactment of this Act.

**SEC. 5. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.**

(a) IN GENERAL.—Section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end the following new subsection:

"(d)(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

"(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than one hundred twenty days after the date of the enactment of this Act.

**SEC. 6. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.**

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

(1) The number of applications for citizenship filed.

(2) The number of applications approved.

(3) The number of applications denied.

(4) The number of applications pending.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 783, the bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 783.

This legislation makes it easier for persons, born to U.S. citizens living abroad, to claim U.S. citizenship or to reacquire citizenship where, under effect of laws now revised, such status was taken from them.

The first proposed revision corrects a problem in law dating from 1934. Prior to the 1934, only U.S. citizen men could confer citizenship on children born outside the United States.

The child of a U.S. citizen father and a noncitizen mother was a U.S. citizen. The child of a U.S. citizen mother and noncitizen father was not a U.S. citizen.

In 1934, Congress revised that clearly discriminatory rule. However, the 1934 Act was not made retroactive. Thus, persons born abroad before 1934 to U.S. citizen mothers and alien fathers are not citizens of the United States. H.R. 783 corrects that inequity.

H.R. 783 also enables children of U.S. citizens who live and work abroad for long periods of time to receive U.S. citizenship. Under current law, U.S. citizen parents are forced to return to the States for lengthy periods of residency to confer citizenship on their children born abroad. H.R. 783 makes it easier for U.S. citizen parents to pass on U.S. citizenship to their children born abroad.

Third, the bill makes available, with regard to the U.S. history and government knowledge portions of the naturalization test, an exemption similar to the one that is available now with regard to the English test. This exemption applies to persons over 65 years old who have been permanent residents for at least 20 years. The bill also provides a general waiver of all testing requirements for persons of any age who, because of physical or developmental disability or mental impairment, could not reasonably be expected to pass the test.

Fourth, the bill allows an individual who lost U.S. citizenship because of failure to meet the retention requirements of the law as they existed prior to repeal in 1978, to regain such citizenship upon application to the Attorney General and upon taking the oath of allegiance, provided such person meets the requirements of existing law.

The Subcommittee on International Law, Immigration, and Refugees held a hearing in the 102d Congress on H.R. 5599, legislation containing similar provisions. The subcommittee heard testimony from a variety of witnesses, including Representatives FRANK, MINETA and ALEXANDER, each of whom had introduced bills dealing with particular problems addressed by H.R. 5599. In addition, Representative LAMAR SMITH had introduced legislation dealing with issues included in H.R. 5599.

H.R. 5599 was ordered favorably reported to the full Judiciary Committee. However, no further action on the bill was taken during the 102d Congress.

In the 103d Congress, I reintroduced the previously approved provisions in my bill H.R. 783. A hearing on that legislation took place on March 10, 1993 with the following witnesses: Representatives PATSY MINK, BARNEY FRANK, and NORM MINETA, the Department of State, World Federation of Americans Abroad, Federated League of Americans Around the Globe, and the National Association of Latino Elected and Appointed Officials.

H.R. 783 was reported out of the subcommittee on May 19, 1993 by a voice vote.

The measure was approved by voice vote by the full Judiciary Committee on November 17, after certain minor amendments were adopted.

H.R. 783 corrects problems in current immigration law and provides the opportunity for relief to individuals, some of whom have grounds for relief dating back to the 1930's.

I urge my colleagues to support H.R. 783.

Mr. BROOKS. Mr. Speaker, H.R. 783 provides improvements to the immigration laws relating to naturalization and citizenship. It removes discriminatory barriers which have been in the law for decades and which treat women different from men for the purposes of transmitting citizenship. The Department of State, rightfully, no longer wishes to defend this distinction.

The bill also eases other restrictions and procedures which present overly restrictive barriers to individuals who are qualified to obtain U.S. citizenship.

I wish to thank Congressman ROMANO MAZZOLI, chairman of the Immigration Subcommittee, for his efforts on this legislation, and Congressman BILL MCCOLLUM, the ranking subcommittee member, for his support.

I urge the Members to support this bill.

Mr. MAZZOLI. Mr. Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 783. This bill is composed of several relatively narrow provisions relating to naturalization and the conveyance of U.S. citizenship. These provisions address discrete problems that have been brought to the attention of the Subcommittee on International Law, Immigration, and Refugees. It is not a far-reaching bill, but it is very important to those people whom it affects.

Section 2 of the bill corrects an inequity in current law that Congressmen LAMAR SMITH and NORMAN MINETA have worked for several years to eliminate. Children born abroad prior to 1934 to U.S. citizen mothers and alien fathers were not U.S. citizens at birth, while children born abroad to U.S. citizen fathers and alien mothers were U.S. citizens. This unequal treatment has been allowed to stand in the law for far too long. H.R. 783 puts an end to it.

Section 3 of the bill embodies a compromise worked out between Congressman BARNEY FRANK and me. Currently, applicants for naturalization must pass an English language test and a U.S. Government and history test. Age and disability waivers are available for the English test. H.R. 783 modifies the disability waiver and extends it to apply to the test on Government and history. The disability waiver, as newly formulated, is available to persons who are unable to take a particular test because of "physical or developmental disability or mental impairment." The new age based waiver of the Government and history test applies to persons who are over 65 and have lived in the United States for 20 or more years.

Sections 4 and 5 address concerns raised with the Subcommittee by the World Federation of Americans Abroad and the Federated League of Americans Around the Globe. Working closely with the World Federation, the State Department and the Immigration and Naturalization Service, I believe we have developed a fair and workable solution to naturalization problems faced by U.S. citizen parents living abroad.

U.S. citizen parents who adopt children abroad and continue to live abroad are unable to naturalize their adopted children under current law. Also, U.S. citizens who have not satisfied certain residency requirements and who are married to alien spouses cannot automatically transmit their U.S. citizenship to children born to them abroad. Section 4 provides a way to naturalize these children. Under this new provision, all administrative action should be able to be completed from abroad and a date set for the naturalization ceremony so that the parent and children can complete the naturalization on one trip to the United States.

Section 5 addresses another inequity in the Immigration and Nationality Act. From 1934 through 1978, U.S. citizens who were born abroad to a U.S. citizen parent and an alien parent were required to be physically present in the United States for a specified period of time in order to retain their U.S. citizenship. This residency requirement was repealed in 1978, but the repeal was not retroactive; as a result, persons who already had lost their citizenship did not benefit from the repeal. Section 5 of H.R. 783 provides a means for these persons to regain their U.S. citizenship.

The language in H.R. 783 has been worked out among various members of the subcommittee, past and present. I believe the resulting product is a very good piece of legislation, and I urge my colleagues to support it.

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Mr. Speaker, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Speaker, let me yield myself such time as I may consume in order to respond to the gentleman from Florida [Mr. MCCOLLUM], who is the ranking member of our subcommittee and with whom I have had a very fond professional and personal relationship for many years. This is the reason why we can bring pieces of legislation like this out, and I hope that in the next session of Congress we will have opportunities to bring out other immigration issues which have been developed in our committee.

I want to thank our chairman for allowing us to bring this legislation forward. The gentleman from Florida mentioned that the gentleman from California [Mr. BERMAN] is involved in a part of this measure. The gentleman from California [Mr. MINETA], the gentleman from Texas [Mr. SMITH], and the gentleman from Massachusetts [Mr. FRANK] have also helped in these matters.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman from Kentucky for his hard work on this and on so many other matters. I am only coming down here because I used to be part of that subcommittee, and I know that it is one of the toughest and the most emotional and the least glamorous jobs around here. I think anybody who serves on that subcommittee on both sides of the aisle deserves some kind of an award. We do not want say that enough around here, but these are some of the toughest doggoned issues there are, and I think we all have the attitude that we do not want liberal immigration except for the people we know, and we think there ought to be laws to let them in. Everybody has 500 different twists to it, and I know you also have to sit there as judge and jury and do all sorts of things.

But I think everyone in this body ought to take more time and say that we realize we have in immigration probably one of the most thankless jobs around here, but it is terribly critical and terribly important. I thank the subcommittee for its work because I think it really has earned many, many stars for doing this job.

Mr. MAZZOLI. Mr. Speaker, I think it is most gracious of the gentlewoman from Colorado to say that. I do remember, of course, in an earlier year when the gentlewoman and I did serve together on the committee. We had a lot of fun, and I think we made some strides in the direction of making immigration more sensitive to the real, true needs of the people in this country and around the world, but at the same time making it a system that is a system, that is not just a system in complete chaos. To bring it together does take patience, and it does obviously take collaboration with Members like the gentleman from Florida [Mr. MCCOLLUM] and others. It takes the great help of the gentlewoman from Colorado [Mrs. SCHROEDER], such as that embodied in a bill that will come up momentarily, and that is, I believe, the bill involving violence against women. It also really takes the support of the entire House. The gentleman from Kentucky has been a beneficiary of a lot of that extraordinary assistance, and he appreciates it, and he very much thanks the gentlewoman.

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield further, I chickened out. As I say, I got very frustrated with trying to deal with the complexities of all those issues. There is no one out there who is really trying to lobby or help, and everybody would like to kind of have ad hoc system so they could wade through whatever they want.

So I thank the gentleman for staying with it and trying to work on those

matters. I thank this committee, too, for helping us with the difficult domestic violence issues that rotate around these other issues. Any issue we deal with in this country, on crime, domestic violence, health care, or whatever, there is always an immigration component, because not everybody in this country is a citizen. So it really cuts across jurisdictions all across the border, and they are always coming at you and saying, "What about this?" and "What about that?" so I just want to take this time on this Saturday morning to say, "Thank you," because it has been a very fine subcommittee.

Mr. MAZZOLI. Mr. Speaker, the gentleman from Kentucky greatly appreciates the gentlewoman's comments and appreciates them both for himself and on behalf of the full subcommittee.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise today in strong support of H.R. 783, the Nationality and Naturalization Amendments of 1993.

I would like to express my deep thanks to my very good friends Mr. MAZZOLI, Mr. MCCOLLUM, and Mr. BERMAN for all of their hard work on this bill over the past 2 years. H.R. 783 is a testament to them, and the skill and dedication of their staffs.

In particular, I am pleased that the bill incorporates H.R. 283, the Equity in Citizenship Act, legislation I authored to remove a longstanding vestige of discrimination against women in our nationality laws.

Prior to 1934, our nationality laws allowed only men to transmit their American citizenship to their children born overseas.

Women who married foreign nationals, and whose children were born outside the United States, could not pass on their citizenship. Although women were finally granted the right to independently transmit their U.S. citizenship to their children in 1934, the Congress failed to make that reform retroactive.

As a result, people born overseas to American mothers and foreign national fathers before 1934 continue to be denied the U.S. citizenship that should be theirs by right.

By granting U.S. citizenship to these individuals, H.R. 783 will at long last correct that injustice. This reform is long overdue, and I urge my colleagues to join me in support of this important legislation.

I also wish to note, Mr. Speaker, that our fine colleague from Kentucky [Mr. MAZZOLI], has announced his intention to retire at the end of this Congress. All of us in this body are going to miss him, and I, especially, will miss working with the gentleman from Kentucky because of his knowledge of all issues that come before the Judiciary Committee and, especially, immigration and naturalization matters.

Mr. MAZZOLI. Mr. Speaker, Let me yield myself just 30 seconds in order to say that I appreciate the words of my friend, the gentleman from California, very much. It has been a great pleasure working with the gentleman.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of H.R. 783, the nationality and naturalization amendments. I would like to congratulate my colleague, Congressman MAZZOLI, for his leadership on this legislation. I also would like to commend Chairman BROOKS and members of the committee and subcommittee for their hard work and dedication which has resulted in H.R. 783 successfully reaching the floor of the House today.

Until now, the law prevented equitable treatment regarding the citizenship of people who are similarly situated but for the gender of their parent who was a U.S. citizen. This legislation signifies the resolve of Congress to eliminate gender bias wherever it might exist. Clearly, individuals who are covered by the provisions of this legislation are entitled to U.S. citizenship, and it is my hope that those who have suffered under the existing and unfair law will find some solace in the amendments I am certain we will pass today.

In addition to correcting an injustice which impeded the rightful claims of many individuals, this legislation brings into line another aspect of the laws of our land as we continue to eliminate all types of discrimination. Members of Congress are duty bound to uncover and rectify bias and intolerance in our laws, rules, and regulations. We must continue to root out bigotry and prejudice wherever it lies.

Mr. Speaker, I again congratulate Congressman MAZZOLI, Chairman BROOKS, and the members of the Judiciary Committee for their hard work and dedication, and I urge my colleagues to support this legislation.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 783, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## HAZARD MITIGATION AND RELOCATION ASSISTANCE ACT OF 1993

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate provides (S. 1670) to improve hazard mitigation and relocation assistance in connection with flooding, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BOEHLERT. Mr. Speaker, reserving the right to object, I will not object, but I would take advantage of this time so that our colleague, the chairman of the subcommittee, can give us an explanation of his request.

Mr. APPLEGATE. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I certainly will yield to the gentleman from Ohio.

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Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding so that I may explain the bill.

Mr. Speaker, the Committee on Public Works and Transportation brings before the House important legislation to assist in the response to the Midwest floods of 1993. The bill provides immediate assistance to those people whose homes are in the floodplains and who are desirous of moving out of harm's way.

Mr. Speaker, S. 1670 is virtually identical to several sections of H.R. 3445 which passed the House on November 15, 1993, under suspension of the rules. Like H.R. 3445, S. 1670 increases the amount of funds available for hazard mitigation.

Also like H.R. 3445, S. 1670 clarifies the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as it applies to relocations carried out as part of the postdisaster response.

The Senate deleted language in H.R. 3445 that would have authorized two Corps of Engineers studies. However, pursuant to a resolution approved by the Committee on Public Works and Transportation, the studies of the Upper Mississippi and Lower Missouri River Basins, which are funded in fiscal year 1994, will be able to be initiated as soon as possible.

Mr. Speaker, this bill is desperately needed to provide timely assistance to the flood victims in the Midwest; it does not require any new appropriation of money; the House approved similar language just this week; and, the administration supports its enactment.

For these reasons, I urge adoption of this important and timely legislation.

Mr. Speaker, I would like to extend special thanks to our friend and colleague, the gentleman from Missouri [Mr. VOLKMER], for doggedly pursuing this and not letting it go until it got passed today.

Mr. BOEHLERT. Mr. Speaker, continuing my reservation of objection, I yield to the distinguished chairman of the full committee, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I stand in strong support of this legislation.

Mr. BOEHLERT. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. MINETA. Mr. Speaker, I want to commend the gentleman from Ohio [Mr. APPLEGATE] for his fine explanation of the bill, and I

want to commend him and the Subcommittee on Water Resources and Environment's ranking Republican, Mr. BOEHLERT, for their leadership on this important bill. I also want to pay special recognition to the following Members who have labored long and hard on behalf of their constituents and the Nation on this important issue: Congressmen VOLKMER, DURBIN, GEPHARDT, EMERSON, COSTELLO, and SKELTON, and Congresswoman DANNER.

In the past, the Federal Emergency Management Agency has helped people who wanted to move out of harm's way. But the scale was very small. Today, as towns try to look to the future, many see more floods. Over 200 communities, many of which have been victims of numerous Floods during the last 20 years, have approached the Federal Government about relocation out of the flood plains to higher ground. The legislation before the House today will increase the availability of Federal assistance for relocations.

Mr. Speaker, I again wish to thank the leadership of the subcommittee, the chairman as well as the ranking Republican, and my fine colleague, the gentleman from Pennsylvania [Mr. SHUSTER], the ranking Republican on our committee, and urge the adoption of this very important legislation.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman for yielding, and I also wish to commend the gentleman from California [Mr. MINETA], the gentleman from Ohio [Mr. APPLEGATE], the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from New York [Mr. BOEHLERT] on this side, and also Senators HARKIN, BAUCUS, and CHAFEE, for assisting us in getting this legislation through, that is much needed by many people throughout the Midwest, and especially in my district, and even in my hometown. This will enable them to be able to accept buyouts and get out of the flood plain. They have been out of their homes since early July, and hopefully by Christmas they will be able to negotiate a buyout and be out of the flood plain and into new housing, and never have to worry about another flood.

Mr. Speaker, I want to thank everybody very, very much from the bottom of my heart.

Mr. BOEHLERT. Mr. Speaker, S. 1670 is a compromise based on H.R. 3445, the recent House-passed bill, addressing the Midwest flooding and improved floodplain management efforts. The compromise bill will help keep people and property out of harm's way. It makes sense to prevent future damages by encouraging floodplain protection and property relocations. Although less comprehensive than the earlier House bill, it is nonetheless, a greatly needed piece of legislation. It needs to get to the President's desk before the end of the year so that people can make more rational decisions about whether to relocate or rebuild flood damaged properties.

I congratulate the leadership of the House Public Works and Transportation Committee, Chairman MINETA, Mr. SHUSTER, and Chairman APPLEGATE, the primary sponsors of earlier House-passed legislation, Mr. VOLKMER and Mr. DURBIN, and key House and Senate Members from the region for their efforts in moving this consensus bill forward.

Mr. SHUSTER. Mr. Speaker, I rise in support of S. 1670, the Hazard Mitigation and Relocation Assistance Act of 1993. It provides a measured, helpful response to the Midwest flooding of 1993 as well as a way to reduce and prevent future flood damage and costly Government bailouts.

S. 1670 is a bipartisan, bicameral compromise, based on recent House-passed legislation. Senators HARKIN, DANFORTH, and others introduced the bill on November 18, 1993. It is a modified version of H.R. 3445, reported by the House Public Works and Transportation Committee on November 15, 1993, and passed by the House on the same day.

Our committee approved an earlier version of the legislation on November 9, 1993, after combining components of H.R. 3012, sponsored by Congressman HAROLD VOLKMER and others, and H.R. 2931, sponsored by Congressman RICHARD DURBIN and others, and adding a couple of amendments and various modifications.

Mr. Speaker, I would be remiss if I did not thank several key players in the two Chambers responsible for this legislation. First, let me commend the chairman of the Public Works and Transportation Committee, NORMAN MINETA, for his leadership and bipartisan cooperation. Chairman DOUGLAS APPLEGATE and ranking Republican SHERRY BOEHLERT of the Water Resources and Environment Subcommittee are also to be congratulated for their efforts.

Special thanks also go to committee members from Missouri and Illinois whose districts have been directly impacted by the Midwest flooding. Congressmen BILL EMERSON, GEORGE SANGMEISTER, GLENN POSHARD, and Congresswoman PAT DANNER, among others, have played key roles in the Federal Government's response to the flooding to date and have been instrumental in crafting our legislation. Obviously, Congressman VOLKMER and Congressman DURBIN, among others, have also been instrumental in writing and passing this consensus bill.

Thanks should also go to the leadership of the Senate Environment and Public Works Committee and key cosponsors of S. 1670.

Mr. Speaker, while S. 1670 will help to improve the Federal Emergency Management Agency's hazard mitigation program, it is less comprehensive than the House-passed bill. For example, S. 1670 omits provisions directing the Corps of Engineers to conduct comprehensive studies—both national and regional along the Upper Mississippi and Lower Missouri Rivers—to improve flood damage reduction and flood plain management. However, our committee has taken action to authorize a comprehensive study of the region's flood control needs by committee resolution. The bill also omits a provision allowing the corps to use Public Law 99 funds, at the request of local sponsor, to implement nonstructural measures.

I know several colleagues, particularly from the flood-ravaged Midwest States, had hoped this vehicle could have addressed a wider array of issues and needs. Some of these requests, however, may need to be addressed in other vehicles. For example, I am sure our committee will be looking in greater depth at a lot of flooding and water resources-related issues next session as we consider comprehensive legislation on the Corps of Engineers—the Emergency Management Agency.

In the meantime, S. 1670 represents a reasonable start in improving hazard mitigation and relocation assistance. Perhaps it can lead to better flood plain management that helps to avoid future bailouts by the Federal Government.

Mr. Speaker, I urge my colleagues to support the bill, allowing it to move forward expeditiously to the President for enactment into law.

Mr. BOEHLERT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

S. 1670

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Hazard Mitigation and Relocation Assistance Act of 1993".

**SEC. 2. HAZARD MITIGATION.**

(a) FEDERAL SHARE AND TOTAL CONTRIBUTIONS.—Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) in the first sentence, by striking "50 percent" and inserting "75 percent"; and

(2) in the last sentence, by striking "10 percent" and all that follows through the end of the sentence and inserting "15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.".

(b) APPLICABILITY.—The amendments made by this section shall apply to any major disaster declared by the President pursuant to The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.

**SEC. 3. PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.**

Section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The President"; and

(2) by adding at the end the following new subsection:

"(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

"(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

"(2) TERMS AND CONDITIONS.—An acquisition or relocation project shall be eligible to

receive assistance pursuant to paragraph (1) only if—

"(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

"(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Director that provides assurances that—

"(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

"(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

"(I) a public facility that is open on all sides and functionally related to a designated open space;

"(II) a rest room; or

"(III) a structure that the Director approves in writing before the commencement of the construction of the structure; and

"(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

"(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

"(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

"(3) STATUTORY CONSTRUCTION.—Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.".

**SEC. 4. TREATMENT OF REAL PROPERTY BUYOUT PROGRAMS.**

(a) INAPPLICABILITY OF URA.—The purchase of any real property under a qualified buyout program shall not constitute the making of Federal financial assistance available to pay all or part of the cost of a program or project resulting in the acquisition of real property or in any owner of real property being a displaced person (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

(b) DEFINITION OF "QUALIFIED BUYOUT PROGRAM".—For purposes of this section, the term "qualified buyout program" means any program that—

(1) provides for the purchase of only property damaged by the major, widespread flooding in the Midwest during 1993;

(2) provides for such purchase solely as a result of such flooding;

(3) provides for such acquisition without the use of the power of eminent domain and notification to the seller that acquisition is without the use of such power;

(4) is carried out by or through a State or unit of general local government; and

(5) is being assisted with amounts made available for—

(A) disaster relief by the Federal Emergency Management Agency; or

(B) other Federal financial assistance programs.

## GENERAL LEAVE

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 1670, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## OMNIBUS AGRICULTURAL RESEARCH AND PROMOTION IMPROVEMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3515) to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these acts and to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3515

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Omnibus Agricultural Research and Promotion Improvement Act".*

***SEC. 2. TABLE OF CONTENTS.***

*The table of contents for this Act is as follows:*

*Sec. 1. Short title.*
*Sec. 2. Table of contents.*

*TITLE I—EGG RESEARCH AND CONSUMER INFORMATION*

*Sec. 101. Short title.*
*Sec. 102. Rate of assessment.*
*Sec. 103. Exempted egg producers.*

*TITLE II—WATERMELON RESEARCH AND PROMOTION*

*Sec. 201. Short title.*
*Sec. 202. Change to majority vote in referendum procedures.*
*Sec. 203. Expansion of watermelon plans to entire United States.*
*Sec. 204. Clarification of differences between producers and handlers.*
*Sec. 205. Clarification of collection of assessments by the Board.*
*Sec. 206. Changes to assessment rate not subject to formal rulemaking.*
*Sec. 207. Elimination of watermelon assessment refund.*
*Sec. 208. Equitable treatment of watermelon plans.*
*Sec. 209. Separate consideration of watermelon plan amendments.*

*TITLE III—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION*

*Sec. 301. Short title.*
*Sec. 302. Findings and declaration of policy.*
*Sec. 303. Definitions.*
*Sec. 304. Issuance of orders.*
*Sec. 305. Fresh Cut Flowers and Fresh Cut Greens Promotion Council (PromoFlor Council).*
*Sec. 306. Assessments.*
*Sec. 307. Miscellaneous requirements of order.*
*Sec. 308. Referenda.*
*Sec. 309. Petition and review.*
*Sec. 310. Enforcement.*
*Sec. 311. Investigations and power to subpoena.*
*Sec. 312. Confidentiality.*
*Sec. 313. Authority for Secretary to suspend or terminate order.*
*Sec. 314. Construction.*
*Sec. 315. Regulations.*
*Sec. 316. Authorization of appropriations.*
*Sec. 317. Separability.*

*TITLE IV—LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION*

*Sec. 401. Short title.*
*Sec. 402. Findings and purpose.*
*Sec. 403. Definition of lime.*
*Sec. 404. Required terms in orders.*
*Sec. 405. Initial referendum.*

***TITLE I—EGG RESEARCH AND CONSUMER INFORMATION***

***SEC. 101. SHORT TITLE.***

*This title may be cited as the "Egg Research and Consumer Information Improvement Act".*

***SEC. 102. RATE OF ASSESSMENT.***

*(a) ASSESSMENT TERMS AND CONDITIONS IN ORDERS.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—*

*(1) by designating the first and second sentences as paragraph (1);*

*(2) by designating the fifth and sixth sentences as paragraph (3);*

*(3) by striking the third and fourth sentences and inserting the following new paragraph:*

*"(2)(A) The rate of assessment shall be prescribed by the order, except that the rate of assessment may not exceed 30 cents per case of commercial eggs or the equivalent thereof.*

*"(B) The Secretary may amend the order to increase the rate of assessment (subject to the limitation in subparagraph (A)) only if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).*

*"(C) The Secretary may amend the order to decrease the rate of assessment only if the decrease is recommended by the Egg Board. A decrease in the rate of assessment shall take effect only after the Secretary provides public notice and an opportunity for comment in accordance with section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to decreasing the rate of assessment."; and*

*(4) by conforming the margins of paragraphs (1) and (3) (as so designated) to the margin of paragraph (2).*

*(b) REFERENDUM REQUIREMENTS.—Section 9 of the Egg Research and Consumer Information Act (7 U.S.C. 2708) is amended—*

*(1) by designating the first two sentences as subsection (a);*

*(2) by designating the last sentence as subsection (c);*

*(3) by inserting after subsection (a) (as so designated) the following new subsection:*

*"(b)(1) Whenever the Egg Board determines, based on scientific studies, marketing analysis, or other similar competent evidence, that an increase in assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the declared policy of this Act, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).*

*"(2) When requested by the Egg Board under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether such producers approve the increase in the assessment rate proposed by the Egg Board. The increase in the assessment rate shall take effect if approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority*

*of the producers voting in such referendum if such majority produced not less than two-thirds of all the commercial eggs produced by those voting during a representative period defined by the Secretary.*

*"(3) With respect to the order in effect on the date of the enactment of this subsection, the Egg Board shall undertake to determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2). If the Egg Board makes such a request on competent evidence, as provided in paragraph (1), the Secretary shall conduct such referendum as soon as practicable, but not later than 120 days after receipt of the request from the Egg Board.*

*"(4) Notwithstanding any other provision of this Act, whenever an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum under this subsection, the Secretary shall amend the order as appropriate to reflect such vote of producers. The amendment to the order shall become effective on the date it is issued."; and*

*(4) by conforming the margins of subsections (a) and (c) (as so designated) to the margin of subsection (b).*

***SEC. 103. EXEMPTED EGG PRODUCERS.***

*(a) INCREASE IN EXEMPTION AMOUNT.—Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".*

*(b) ISSUANCE OF AMENDMENT TO ORDER.—To implement the amendment made by subsection (a) to the Egg Research and Consumer Information Act, the Secretary of Agriculture shall issue an amendment to the egg promotion and research order issued under such Act. The amendment to the order shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to the amendment to the order. The Secretary shall issue the proposed amendment to the order not later than 30 days after the date of the enactment of this title.*

*(c) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by subsection (b) shall become effective not later than 120 days after the date of the enactment of this Act. The amendment shall not be subject to a referendum under the Egg Research and Consumer Information Act.*

***TITLE II—WATERMELON RESEARCH AND PROMOTION***

***SEC. 201. SHORT TITLE.***

*(a) SHORT TITLE.—This title may be cited as the "Watermelon Research and Promotion Improvement Act".*

***SEC. 202. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.***

*Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—*

*(1) by inserting "(a)" after "SEC. 1653.";*

*(2) by striking the third sentence; and*

*(3) inserting at the end the following new subsection:*

*"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers if subject to the plan) voting in the referendum.".*

***SEC. 203. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.***

*(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902(3)) is amended—*

*(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and*

*(2) by adding at the end the following new paragraph:*

*"(10) The term 'United States' means each of the several States and the District of Columbia.".*

*(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".*

***SEC. 204. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.***

*Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following:*

*"(3) If a producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production, the producer shall be eligible to serve on the Board only as a representative of handlers and not as a representative of producers. In addition, if the combined total volume of watermelons handled by a producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production, the producer shall be eligible to serve on the Board only as a representative of handlers and not as a representative of producers.".*

***SEC. 205. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.***

*Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—*

*(1) in subsection (f), by striking "collection of the assessments by the Board." and inserting "payment of the assessments to the Board."; and*

*(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" and inserting "received".*

***SEC. 206. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.***

*Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)), as amended by section 205(1), is further amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".*

***SEC. 207. ELIMINATION OF WATERMELON ASSESSMENT REFUND.***

*Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—*

*(1) by striking "The plan" in the first sentence and inserting "(1) Except as provided in paragraph (2), the plan"; and*

*(3) by adding at the end the following new paragraphs:*

*"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act to eliminate such refund provision.*

*"(3) Notwithstanding paragraph (2), if importers are subject to the plan, the plan shall provide that importers of less than 75,000 pounds of watermelons per year shall be entitled to apply for a refund of the equivalent of the rate of assessment paid by domestic producers. The Secretary may adjust the weight exemption contained in this paragraph to reflect significant changes in the average yield per acre of watermelons in the United States for the 5-year period immediately preceding the year in which the adjustment is made. An adjustment in the weight exemption under this paragraph may be made only upon the recommendation of the Board and after the Secretary provides an opportunity for notice and comment on the proposed adjustment.".*

***SEC. 208. EQUITABLE TREATMENT OF WATERMELON PLANS.***

*(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 203(a), is further amended—*

*(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";*

*(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and*

*(3) by inserting after paragraph (5) the following new paragraphs:*

*"(6) The term 'importer' means any person who imports watermelons into the United States.*

*"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".*

*(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 203(b), is further amended—*

*(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";*

*(2) by striking the second sentence; and*

*(3) in the last sentence, by inserting "or imported into the United States" before the period.*

*(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—*

*(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and*

*(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".*

*(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 204, is further amended—*

*(1) by inserting "(1)" after "(c)";*

*(2) in the second sentence, by striking "producer and handler members" and inserting "other members"; and*

*(3) by adding at the end the following new paragraph:*

*"(2) If importers are subject to the plan, the Board shall also include one or more representatives of importers who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary. Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that there shall always be at least one representative of importers on the Board. If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers. Every 5 years, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the most recent 3-year period and adjust, to the extent possible, the number of importer representatives on the Board.".*

*(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)), as amended by section 205(2), is further amended—*

*(1) in paragraph (4)—*

*(A) by striking "(4) assessments" and inserting "(4) Assessments"; and*

*(B) by inserting "in the case of producers and handlers" after "such assessments"; and*

*(2) by adding at the end the following new paragraph:*

*"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by such importers. The rate of assessment for importers (if subject to the plan) shall be equal to the combined rate for producers and handlers.".*

*(f) REFUNDS.—Section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 207, is further amended—*

*(1) by inserting after "or handler" the first two places it appears the following: "(or importer if subject to the plan)"; and*

*(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".*

*(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—*

*(1) in subsection (a)—*

*(A) by inserting "(1)" after "(a)"; and*

*(B) by adding at the end the following new paragraph:*

*"(2) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessments to the Board, as the Board may direct. The assessment on imported watermelons shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States. Each such importer shall maintain a separate record specifying the total quantity of watermelons imported into the United States that are included under the terms of the plan, as well as those that are exempt under such plan, and containing such other information as may be prescribed by the Board. No more than one assessment shall be made on any imported watermelons.";*

*(2) in subsection (b), by inserting "and importers" after "Handlers"; and*

*(3) in subsection (c)(1), by inserting "or importers" after "handlers".*

*(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—*

*(1) in the first sentence, by striking "a handler or any other person" and inserting "a person";*

*(2) in the fourth sentence, by inserting "(or an importer if subject to the plan)" after "a handler"; and*

*(3) in the last sentence, by striking "the handler or other person" and inserting "the person".*

*(i) REFERENDUM.—Section 1653 of such Act (7 U.S.C. 4912), as amended by section 202, is further amended—*

*(1) in the first sentence—*

*(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and*

*(B) by striking "or handling" and inserting ", handling, or importing";*

*(2) by striking the second sentence; and*

*(3) in the sentence beginning "The ballots"—*

*(A) by striking "or handler" and inserting ", handler, or importer"; and*

*(B) by striking "or handled" and inserting ", handled, or imported".*

*(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—*

*(1) in the first sentence—*

*(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and*

*(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";*

*(2) in the second sentence—*

*(A) by striking "or handle" and inserting ", handle, or import";*

*(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and*

*(C) by striking "or handled by the handlers" and inserting ", handled by the handlers, and imported by the importers"; and*

*(3) by striking the last sentence.*

*(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—*

*(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";*

*(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—*

*(A) by inserting ", or imported into the United States," after "harvested in the United States"; and*

*(B) by striking "produced in the United States";*

*(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 203—*

*(A) by striking "subtitle—" and inserting "subtitle:";*

*(B) in paragraphs (1), (2), (3), (4), and (5), by striking "the term" and inserting "The term";*

*(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end and inserting a period;*

*(D) in paragraph (8), as redesignated by subsection (a)(2)—*

*(i) by striking "the term" and inserting "The term"; and*

*(ii) by striking "; and" and inserting a period; and*

*(E) in paragraph (9), as redesignated by subsection (a)(2)—*

*(i) by striking "the term" and inserting "The term"; and*

*(ii) by striking "1644" and inserting "1647"; and*

*(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 205(2)—*

*(A) by striking "that—" and inserting "the following:";*

*(B) in paragraph (1)—*

*(i) by striking "(1) funds" and inserting "(1) Funds"; and*

*(ii) by striking the semicolon at the end and inserting a period;*

*(C) in paragraph (2)—*

*(i) by striking "(2) no" and inserting "(2) No"; and*

*(ii) by striking the semicolon at the end and inserting a period;*

*(D) in paragraph (3)—*

*(i) by striking "(3) no" and inserting "(3) No"; and*

*(ii) by striking "; and" and inserting a period.*

***SEC. 209. SEPARATE CONSIDERATION OF WATERMELON PLAN AMENDMENTS.***

*Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended—*

*(1) by striking "The provisions" and inserting "(a) Except as provided in section 1647(f), the provisions"; and*

*(2) by adding at the end the following new subsections:*

*"(b) The amendments described in subsection (c) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.*

*"(c) The amendments referred to in subsection (b) are those amendments required under—*

*"(1) section 207 of the Watermelon Research and Promotion Improvement Act relating to the elimination of the assessment refund; and*

*"(2) section 208 of such Act relating to subjecting importers to the terms and conditions of the plan.*

*"(d) When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments are approved.".*

***TITLE III—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION***

***SEC. 301. SHORT TITLE.***

*This title may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act".*

***SEC. 302. FINDINGS AND DECLARATION OF POLICY.***

*(a) FINDINGS.—Congress finds the following:*

*(1) Fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment.*

*(2) Cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses, and such production, handling, and marketing constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States.*

*(3) Handlers play a vital role in the marketing of cut flowers and cut greens in that they purchase most of the cut flowers and cut greens marketed by producers, prepare the cut flowers and cut greens for retail consumption, serve as intermediary between source of product and retailer, otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce, and add efficiencies to the market process that ensure the availability of a much greater variety of product to retailers and consumers.*

*(4) It is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to consumers in the United States.*

*(5) Cut flowers and cut greens move in interstate and foreign commerce, and cut flowers and cut greens that do not move in such channels of commerce, but only in intrastate commerce, directly affect interstate commerce in cut flowers and cut greens.*

*(6) The maintenance and expansion of existing markets and the development of new or improved markets or uses for cut flowers and cut greens are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry.*

*(7) Generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens marketed.*

*(8) Because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of existing markets and the development of new markets for cut flowers and cut greens have been prevented.*

*(9) There exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will be able to take advantage of the promotion and consumer information program authorized by this title to enhance their market development efforts for domestic producers.*

*(10) An effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for these articles.*

*(11) The most efficient method of financing a nationwide program of generic promotion and consumer information regarding cut flowers and*

*cut greens is to assess cut flowers and cut greens at the point they are sold by handlers into the retail market.*

*(b) POLICY AND PURPOSE.—It is declared to be the policy of Congress that it is in the public interest, and it is the purpose of this title, to authorize the establishment pursuant to this title of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.*

***SEC. 303. DEFINITIONS.***

*For purposes of this title:*

*(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program to provide information to consumers and other persons regarding—*

*(A) appropriate uses of cut flowers or cut greens under varied circumstances; and*

*(B) the care and handling of cut flowers or cut greens.*

*(2) CUT FLOWERS AND CUT GREENS.—*

*(A) IN GENERAL.—The term "cut flowers" includes all flowers cut from growing plants and used as fresh-cut flowers, produced either under cover or in field operations. The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants and used as fresh-cut decorative foliage, produced either under cover or in field operations. The term "cut greens" does not include Christmas trees, and neither term includes foliage plants, floral supplies, or flowering plants.*

*(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article, such as a gift basket or similar presentation, for sale to retailers, the PromoFlor Council may determine, under procedures set out in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article. Based on such a determination, the article containing the cut flowers or cut greens shall not be treated as an article of cut flowers or cut greens for purposes of—*

*(i) determining the annual sales of cut flowers and cut greens of a handler under paragraph (4)(C); or*

*(ii) imposing an assessment under section 306.*

*(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens by a handler.*

*(4) HANDLER DEFINITIONS.—*

*(A) QUALIFIED HANDLER.—*

*(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens industry that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers and whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.*

*(ii) INCLUSIONS.—The term "qualified handler" includes the following:*

*(I) Bouquet manufacturers.*

*(II) Auction houses that clear sales of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse.*

*(III) Any distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales. For purposes of determining sales of cut flowers and cut greens to retailers from any such distribution center, each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C)(ii).*

*(iii) EXCLUSIONS.—The term "qualified handler" does not include a person who merely physically transports or delivers cut flowers or cut greens.*

*(iv) RULES OF CONSTRUCTION FOR DIRECT TO CONSUMER SALES.—The term "qualified handler" includes an importer that sells directly to consumers cut flowers or cut greens that it has imported into the United States and whose sales of such cut flowers or cut greens (as calculated under subparagraph (C)), along with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more. The term "qualified handler" also includes a producer that sells directly to consumers cut flowers or cut greens that it has produced and whose sales of such cut flowers or cut greens (as calculated under subparagraph (C)), along with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more. Each direct sale to consumers by an importer or producer described in this clause shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in clause (iii) or (iv) of subparagraph (C).*

*(B) EXEMPT HANDLER.—The term "exempt handler" means a person that would otherwise be considered to be a qualified handler, except that its annual sales of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.*

*(C) ANNUAL SALES DETERMINED.—*

*(i) IN GENERAL.—For purposes of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of product sold.*

*(ii) SPECIAL RULE FOR DISTRIBUTION CENTERS.—In the case of a non-sale transfer of cut flowers or cut greens from a distribution center, as described in subparagraph (A)(ii)(III), the amount of the sale shall be—*

*(I) the price paid by the distribution center to acquire the cut flowers or cut greens; plus*

*(II) an amount determined by multiplying the acquisition price determined under subclause (I) by a uniform percentage established by the order to represent a wholesale handler's mark-up on a sale to a retailer.*

*(iii) SPECIAL RULE FOR DIRECT SALES BY IMPORTERS.—In the case of a direct sale by an importer to a consumer, as described in subparagraph (A)(iv), the amount of the sale shall be—*

*(I) the price paid by the importer to acquire the cut flowers or cut greens; plus*

*(II) an amount determined by multiplying the acquisition price determined under subclause (I) by a uniform percentage established by the order to represent a wholesale handler's mark-up on a sale to a retailer.*

*(iv) SPECIAL RULE FOR DIRECT SALES BY PRODUCERS.—In the case of a direct sale by a producer to a consumer, as described in subparagraph (A)(iv), the amount of the sale shall be an amount determined by applying to the price paid by the consumer a uniform percentage established by the order to represent the cost of producing the article and a wholesale handler's mark-up on a sale to a retailer.*

*(D) REFERENCE TO OTHER DEFINITIONS.—For purposes of this paragraph, the term "producer" has the meaning given the term "producers that are qualified handlers" in section 305(a)(2)(D)(ii), and the term "importer" has the meaning given the term "importers that are qualified handlers" in section 305(a)(2)(D)(iii).*

*(5) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.*

*(6) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 305(a).*

*(7) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.*

*(8) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.*

*(9) RETAILER.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller as described in an order issued under this title) that sells cut flowers or cut greens to consumers. The term shall include any distribution center—*

*(A) owned or controlled by such person, or owned or controlled cooperatively by a group of such persons, if the predominant retail business activity of such person is not floral sales; or*

*(B) independently owned but operated primarily to provide food products to retail stores.*

*An independently owned distribution center covered by subparagraph (B) that is also an importer or producer of cut flowers or cut greens shall be subject to the rules of construction set out in paragraph (4)(A)(iv) and, for such purposes only, shall be deemed to be the seller of cut flowers or cut greens directly to the consumer.*

*(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.*

*(11) UNITED STATES; STATE.—The terms "United States" and "State" include the fifty States of the United States, the District of Columbia, and all the territories and possessions of the United States.*

***SEC. 304. ISSUANCE OF ORDERS.***

*(a) IN GENERAL.—To effectuate the declared policy of section 302(b), the Secretary shall issue an order under this title applicable to qualified handlers of cut flowers and cut greens. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.*

*(b) PROCEDURES.—*

*(1) PROPOSAL FOR AN ORDER.—The Secretary may propose the issuance of an order under this title. In addition, an industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person that will be affected by this title, may request the issuance of, and submit a proposal for, such an order.*

*(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—*

*(A) the date on which the Secretary receives the proposal for the order from an industry group or interested person, as provided in paragraph (1); or*

*(B) the date on which the Secretary determines to propose the order.*

*(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are provided, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this title. The order shall be issued and become effective not later than 180 days after publication of the proposed order.*

*(c) AMENDMENTS.—From time to time, the Secretary may amend an order issued under this title. The provisions of this title applicable to the issuance of an order shall be applicable to amendments to the order.*

***SEC. 305. FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION COUNCIL (PROMOFLOR COUNCIL).***

*(a) ESTABLISHMENT OF PROMOFLOR COUNCIL.—*

*(1) ESTABLISHMENT.—The order issued under this title shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council to administer the order. The Secretary shall appoint the members of the PromoFlor Council in the manner provided in paragraphs (2) and (3).*

*(2) APPOINTMENT OF MEMBERS.—*

*(A) DISTRIBUTION OF APPOINTMENTS.—The order shall provide that the membership of the PromoFlor Council shall consist of 23 members as follows:*

*(i) Fourteen members selected from among qualified wholesale handlers of domestic or imported cut flowers and cut greens.*

*(ii) Three members selected from among producers that are qualified handlers of cut flowers and cut greens.*

*(iii) Three members selected from among importers that are qualified handlers of cut flowers and cut greens.*

*(iv) One member selected from among retailers of cut flowers and cut greens.*

*(v) Two members selected from among producers of cut flowers and cut greens that are not qualified handlers or exempt handlers.*

*(B) APPOINTMENT FROM NOMINEES.—The Secretary shall appoint the producer members of the PromoFlor Council required by subparagraph (A)(v) from nominees submitted by producers of cut flowers and cut greens described in such paragraph. With respect to the other appointments to the PromoFlor Council required by subparagraph (A), two nominees shall be submitted for each appointment pursuant to the nomination process provided for in paragraph (3). If nominees are not submitted for an appointment, the Secretary may make the appointment on a basis to be provided in the order or other regulations of the Secretary.*

*(C) GEOGRAPHICAL CONSIDERATIONS.—In making appointments of qualified wholesale handlers to the PromoFlor Council under subparagraph (A)(i), the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States. In making appointments of producers of cut flowers and cut greens to the PromoFlor Council under subparagraph (A)(v), the Secretary shall ensure that one member is selected from among producers located east of the Mississippi River and one member is selected from among producers located west of the Mississippi River.*

*(D) DEFINITIONS.—For purposes of this subsection:*

*(i) QUALIFIED WHOLESALE HANDLERS.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier and that is subject to assessments as a qualified handler under the order. For purposes of this clause, the term "floral wholesale jobber" means a person that conducts a commission or other wholesale business in buying and selling cut flowers or cut greens, and the term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.*

*(ii) PRODUCERS THAT ARE QUALIFIED HANDLERS.—The term "producers that are qualified handlers" means those persons that are subject to assessments as a qualified handler under the order and are engaged—*

*(I) in the domestic production, for sale in commerce, of cut flowers or cut greens if the persons own or share in the ownership and risk of loss of the cut flowers or cut greens; or*

*(II) as a first processor of noncultivated cut greens, in receiving the cut greens from the persons that gather them for handling.*

*(iii) IMPORTERS THAT ARE QUALIFIED HANDLERS.—The term "importers that are qualified handlers" means those persons—*

*(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and*

*(II) that are subject to assessments as a qualified handler under the order.*

*(3) NOMINATION PROCESS.—*

*(A) QUALIFIED HANDLERS.—Nominations for the appointment to the PromoFlor Council of qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, whichever applies, through an election process under regulations prescribed by the Secretary;*

*(B) RETAILERS.—Nominations for the retailer appointment under paragraph (2)(A)(iv) shall be made by the American Floral Marketing Council, or successor entity.*

*(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary under procedures specified in the order.*

*(5) TERMS.—The order shall provide that each member of the PromoFlor Council shall serve a term of three years. However, of the initial appointments, seven members shall be appointed for a term of two years, eight members shall be appointed for a term of three years, and eight members shall be appointed for a term of four years, as designated by the Secretary at the time of appointment. No member of the PromoFlor Council may serve more than two consecutive terms of three years, except that any member serving an initial term of four years may serve an additional term of three years.*

*(6) COMPENSATION.—Members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for their expenses incurred in performing their duties as members of the PromoFlor Council.*

*(7) EXECUTIVE COMMITTEE.—*

*(A) ESTABLISHMENT.—The order shall authorize the PromoFlor Council to appoint from among its members an executive committee of not more than nine members. The membership of the executive committee initially shall be composed of four members appointed pursuant to clause (i) of subparagraph (2)(A), two members appointed pursuant to clause (ii) of such subparagraph, two members appointed pursuant to clause (iii) of such subparagraph, and one member appointed pursuant to clause (iv) of such subparagraph. Thereafter, appointments to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole. The initial appointments to the executive committee shall be for a term of two years. Thereafter, appointments to the executive committee shall be for a term of one year.*

*(B) DELEGATION OF AUTHORITY.—The PromoFlor Council may delegate to the executive committee its authority under the order to hire and manage staff and conduct the routine business of the PromoFlor Council within the policies determined by the PromoFlor Council.*

*(b) RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—*

*(1) IN GENERAL.—The order shall define the responsibilities of the PromoFlor Council, which shall include the general responsibilities described in this subsection.*

*(2) ADMINISTRATION.—The PromoFlor Council shall administer the order in accordance with its terms and provisions and may prescribe such rules and regulations to effectuate the terms and provisions of the order as the PromoFlor Council considers appropriate.*

*(3) STAFF.—The PromoFlor Council may employ such persons as the PromoFlor Council determines are necessary and set the compensation and define the duties of such persons.*

*(4) MISCELLANEOUS.—The PromoFlor Council may receive complaints regarding violations of the order and shall investigate and report to the Secretary regarding such complaints. The PromoFlor Council may recommend to the Secretary amendments to the order. The PromoFlor Council shall furnish the Secretary with such information as the Secretary may require.*

*(c) BUDGETS.—*

*(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to prepare and submit to the Secretary on a fiscal year basis a budget of the anticipated expenses and disbursements of the Board to implement the order. The budget shall include projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.*

*(2) APPROVAL BY SECRETARY REQUIRED.—The PromoFlor Council may not implement a budget submitted under paragraph (1) before the budget is approved by the Secretary.*

*(3) INVESTMENT AUTHORITY.—The order shall provide the PromoFlor Council with the authority to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this title. Income from invested funds shall be used only for a purpose for which the invested funds may be used. The investment of such funds shall be made only in—*

*(A) obligations of the United States or any agency thereof;*

*(B) general obligations of any State or any political subdivision thereof;*

*(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or*

*(D) obligations fully guaranteed as to principal and interest by the United States.*

*(4) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that, as soon as practicable after the date the order becomes effective and after consultation with the Secretary and other appropriate persons, the PromoFlor Council shall implement a system of cost controls based on normally accepted business practices to ensure that the PromoFlor Council's annual budgets only include amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order and conduct, supervise, and evaluate plans and projects under the order.*

*(d) PLANS AND PROJECTS.—*

*(1) PROMOTION AND CONSUMER INFORMATION.—The order shall provide for the establishment, implementation, administration, and evaluation by the PromoFlor Council of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens. A plan or project under this paragraph shall be directed toward increasing the general demand for cut flowers or cut greens.*

*(2) RESEARCH.—The order shall provide for the establishment, implementation, administration, and evaluation by the PromoFlor Council of plans and projects for market development research, research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens, and other research with respect to cut flowers or cut greens marketing, promotion, or consumer information. The PromoFlor Council shall provide for the dissemination of information resulting from research plans and projects under this paragraph.*

*(3) DISBURSEMENT OF FUNDS.—The order shall also provide authority for the disbursement by the PromoFlor Council of necessary funds to carry out the plans and projects under this subsection.*

*(4) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval any proposed plan or project for cut flowers or cut*

*greens promotion, consumer information, or related research under this subsection.*

*(5) APPROVAL BY SECRETARY REQUIRED.—The PromoFlor Council may not implement a plan or project for cut flowers or cut greens promotion, consumer information, or related research before the plan or project is approved by the Secretary.*

*(6) LIMITATIONS.—A plan or project under this subsection may not make a reference to a private brand or trade name, point of origin, or source of supply, except that these limitations shall not preclude the PromoFlor Council from offering its plans and projects for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary. A plan or project may not make use of unfair or deceptive acts or practices with respect to quality or value.*

*(e) CONTRACTS AND AGREEMENTS.—*

*(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—To ensure the efficient use of funds, the order shall provide that, subject to the approval of the Secretary, the PromoFlor Council may—*

*(A) enter into contracts or agreements for the implementation of any plan or project under subsection (d) for promotion, consumer information, or related research with respect to cut flowers or cut greens; and*

*(B) pay costs related to the plan or project with funds received by the PromoFlor Council under the order.*

*(2) REQUIREMENTS OF CONTRACTS AND AGREEMENTS.—The order shall provide that any contract or agreement under paragraph (1) shall provide that—*

*(A) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred under the plan or project;*

*(B) the plan or project shall become effective only upon the approval of the Secretary; and*

*(C) the contracting or agreeing party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the PromoFlor Council of activities conducted, and make such other reports as the PromoFlor Council or the Secretary may require.*

*(3) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council also may enter into contracts or agreements for administrative services. Any such contract or agreement shall include provisions comparable to those provided in paragraph (2).*

*(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—*

*(1) IN GENERAL.—The order shall require the PromoFlor Council to maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe. The PromoFlor Council shall also prepare and submit to the Secretary such reports as the Secretary may require and account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.*

*(2) AUDITS.—The PromoFlor Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year. A report of each such audit shall be submitted to the Secretary.*

*(3) LISTS OF IMPORTERS.—The order shall require the staff of the PromoFlor Council to periodically review lists of importers of cut flowers and cut greens to determine whether persons included in the lists are subject to the order. At the request of the PromoFlor Council, the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.*

*(g) PROHIBITION ON LOBBYING.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.*

*(h) CONSULTATIONS WITH INDUSTRY EXPERTS.—The order shall provide that the PromoFlor Council may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects. For such purpose, the order also shall authorize the appointment of special committees composed of persons other than PromoFlor Council members. A committee appointed pursuant to the authority provided in this subsection may not provide advice or recommendations to an agency or officer of the Federal Government, but shall consult directly with the PromoFlor Council.*

***SEC. 306. ASSESSMENTS.***

*(a) AUTHORITY TO IMPOSE ASSESSMENT.—*

*(1) IN GENERAL.—An order issued under this title shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner prescribed by the order, an assessment on each sale of cut flowers or cut greens (other than a sale described in subsection (g)) to a retailer or an exempt handler. This assessment requirement shall also apply to each transaction described in paragraph (4).*

*(2) DETERMINATION OF QUALIFIED HANDLER OR EXEMPT HANDLER STATUS.—The order shall contain provisions regarding the making of determinations to determine status as a qualified handler or exempt handler that include the rules and requirements set out in section 303(4) and subsections (a) and (b) of section 307.*

*(3) PUBLISHED LISTS OF HANDLERS.—To facilitate the payment of assessments under this section, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.*

*(4) CERTAIN COVERED TRANSACTIONS.—*

*(A) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center, as described in section 303(4)(A)(ii)(III), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or producer, as described in section 303(4)(A)(iv), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.*

*(B) DETERMINATION OF SALE AMOUNT FOR DISTRIBUTION CENTERS.—In the case of a non-sale transfer of cut flowers or cut greens from a distribution center, the amount of the sale shall be considered to be—*

*(i) the price paid by the distribution center to acquire the cut flowers or cut greens; plus*

*(ii) an amount determined by multiplying acquisition price determined under clause (i) by a uniform percentage established by the order to represent a wholesale handler's mark-up on a sale to a retailer.*

*(C) DETERMINATION OF SALE AMOUNT FOR DIRECT SALES BY IMPORTERS.—In the case of a direct sale by an importer to a consumer, the amount of the sale shall be considered to be—*

*(i) the price paid by the importer to acquire the cut flowers or cut greens; plus*

*(ii) an amount determined by multiplying the acquisition price determined under clause (i) by a uniform percentage established by the order to represent a wholesale handler's mark-up on a sale to a retailer.*

*(D) DETERMINATION OF SALE AMOUNT FOR DIRECT SALES BY PRODUCERS.—In the case of a direct sale by a producer to a consumer, the amount of the sale shall be considered to be an amount determined by applying to the price paid by the consumer a uniform percentage established by the order to represent the cost of producing the article and a wholesale handler's mark-up on a sale to a retailer.*

*(E) ADJUSTMENT OF UNIFORM PERCENTAGE.—The PromoFlor Council may recommend to the Secretary changes to the uniform percentage established by the order and used to determine the amount of annual sales of handlers under section 303(4) and sale amounts under this paragraph. The Secretary may make a change in the uniform percentage based on such a recommendation only after providing an opportunity for notice and comment regarding the proposed change.*

*(b) ASSESSMENT RATES.—The order shall comply with the following assessment requirements:*

*(1) INITIAL ASSESSMENT RATE.—The rate of assessment on each sale or transfer of cut flowers or cut greens, for the first three years the order is in effect, shall be one-half of one percent of—*

*(A) the gross sales price of product sold; or*

*(B) in the case of transactions described in subsection (a)(4), the amount of the transaction calculated as provided in such subsection.*

*(2) CHANGES IN ASSESSMENT RATE.—*

*(A) AUTHORIZED AMOUNT OF CHANGE.—Subject to subparagraph (B), after the first three years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—*

*(i) the gross sales price of product sold; or*

*(ii) in the case of transactions described in subsection (a)(4), the amount of the transaction calculated as provided in such subsection.*

*(B) LIMITATION.—The assessment rate may not exceed one percent of gross sales price or transaction amount.*

*(C) METHOD OF CHANGING ASSESSMENT AMOUNT.—Any change in the rate of assessment may be made only if adopted by the PromoFlor Council by a two-thirds majority vote and approved by the Secretary as necessary to achieve the objectives of this title. The Secretary may make the change only after providing an opportunity for notice and comment regarding the proposed change, and the change in the rate of assessment shall be announced by the PromoFlor Council at least 30 days prior to going into effect. A change in the rate of assessment shall not be subject to a vote in a referendum under section 308.*

*(c) SUBMISSION OF ASSESSMENTS.—The order shall provide that each person required to pay assessments under this section shall remit, to the PromoFlor Council, the assessment due from each sale by that person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days from the end of the month in which the sale took place) as specified in the order.*

*(d) REFUNDS FROM ESCROW ACCOUNT.—*

*(1) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—*

*(A) establish an escrow account to be used for assessment refunds as needed; and*

*(B) place into the escrow account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order goes into effect, as provided in section 304(b)(3), and ending on the date the initial referendum on the order provided for in section 308(a) is completed.*

*(2) RIGHT TO RECEIVE REFUND.—*

*(A) IN GENERAL.—The order shall provide that, subject to paragraph (3) and the conditions specified in subparagraph (B), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in paragraph (1)(B), if—*

*(i) the qualified handler is required to pay such assessments;*

*(ii) the qualified handler does not support the program established under this title;*

*(iii) the qualified handler demands a refund prior to the conduct of the referendum on the order under section 308(a); and*

*(iv) the order is not approved by qualified handlers in the referendum.*

*(B) CONDITIONS.—The right of any qualified handler to receive refunds under subparagraph (A) shall be subject to the following conditions:*

*(i) The demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the PromoFlor Council.*

*(ii) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which refund is demanded.*

*(iii) If the amount in the escrow account required under paragraph (1) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 308(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand a refund.*

*(3) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum under section 308(a), there shall be no refunds made and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.*

*(e) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (net of any refunds paid out under the terms of the order contained in subsection (d)) shall be used for payment of costs incurred in implementing and administering the order, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this title, except for the salaries of Government employees incurred in conducting referenda.*

*(f) POSTPONEMENT OF COLLECTIONS.—*

*(1) AUTHORITY.—Notwithstanding any other provision of this title, the PromoFlor Council may grant a postponement of the payment of assessments under this section for any qualified handler that establishes that it is financially unable to make the payment. The granting of such a postponement shall be considered under application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after providing public notice and an opportunity to comment on the proposed rules.*

*(2) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—To establish that it is financially unable to pay assessments, an applicant for a postponement shall demonstrate that it is insolvent and will be unable to continue to operate if it is required to pay assessments when they are otherwise due. As part of making such a demonstration, the applicant shall submit an opinion of an independent certified pubic accountant and any other documentation required under rules prescribed under paragraph (1). All books, records, and other documentation submitted by a qualified handler under this paragraph shall be subject to the confidentiality requirements of section 307(d).*

*(3) PERIOD OF POSTPONEMENT.—The time period of any postponement and the terms and conditions of payment of assessments that are postponed under this subsection shall be established by the PromoFlor Council, in accordance with rules prescribed under paragraph (1), so as to appropriately reflect the proven needs of the qualified handler. Postponements may be extended under the requirements and procedures established pursuant to paragraph (1) for the grant of initial postponements.*

*(g) EXCLUSION FROM ASSESSMENTS.—The order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.*

***SEC. 307. MISCELLANEOUS REQUIREMENTS OF ORDER.***

*(a) DETERMINATION OF ANNUAL SALES.—*

*(1) IN GENERAL.—For purposes of applying the $750,000 annual sales limitation to specific persons in order to determine status as a qualified handler or an exempt handler under section 303(4), or to specific facilities in order to determine status as an eligible separate facility under section 308(b)(2), any order issued under this title shall provide that a determination of a person's or facility's annual sales volume shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year.*

*(2) SPECIAL RULE FOR NEW BUSINESSES.—With respect to new businesses and other operations for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor Council, the determination under paragraph (1) may be made using an alternative time period or other alternative procedures specified in the order.*

*(3) REPORTS.—For purposes of this section, the order may require each person that sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person. A report under this subsection shall be subject to the confidentiality requirements provided in subsection (d).*

*(b) RULE OF ATTRIBUTION.—*

*(1) IN GENERAL.—For purposes of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—*

*(A) in those cases in which the person is an individual, sales attributable to such person's spouse, children, grandchildren, parents, and grandparents;*

*(B) in those cases in which the person is a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;*

*(C) for both individuals and partnerships, sales attributable to any corporation or other entity in which the person owns more than 50 percent of the stock or (if the entity is not a corporation) that the person controls; and*

*(D) in those cases in which the person is a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.*

*(2) TREATMENT OF CERTAIN STOCK AND OWNERSHIP INTERESTS.—For purposes of this subsection, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.*

*(c) BOOKS, RECORDS, AND REPORTS.—So that information is available to the Secretary and the PromoFlor Council for the administration and enforcement of this title, the order, or any regulation issued under this title, the order shall provide that each qualified handler shall—*

*(1) maintain, and make available for inspection, such books and records as may be required by the order; and*

*(2) file reports at the time, in the manner, and having the content prescribed by the order, to the end that information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this title, the order, or any regulation issued under this title.*

*(d) CONFIDENTIALITY REQUIRED.—*

*(1) IN GENERAL.—Information obtained by the PromoFlor Council from books, records, or reports required to be maintained under this section shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council. Such information may be disclosed to the public only in a suit or administrative hearing involving the order that is brought at the request of the Secretary (or to which the Secretary or any officer of the United States is a party), and then, only to the extent the Secretary considers relevant.*

*(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) prohibits—*

*(A) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or*

*(B) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by the person.*

*(e) OTHER TERMS OF ORDER.—The order shall contain such other terms and provisions, not inconsistent with this title, as are necessary to effectuate this title, including provision for the assessment of interest and a charge for each late payment of assessments under this section.*

***SEC. 308. REFERENDA.***

*(a) REQUIREMENT FOR INITIAL REFERENDUM.—*

*(1) CONDUCT.—Not later than 36 months after the issuance of an order under section 304(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order to ascertain whether or not the order then in effect shall be continued.*

*(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).*

*(b) VOTES PERMITTED.—*

*(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum under this section may cast one vote for each separate facility of the person that is an eligible separate facility, as determined under paragraph (2).*

*(2) ELIGIBLE SEPARATE FACILITY.—*

*(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered a separate facility if it is physically located away from other facilities of the qualified handler or its business function is substantially different than the functions of other facilities owned or operated by the qualified handler.*

*(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.*

*(C) ANNUAL SALES DETERMINED.—Subparagraphs (A) and (C) of section 303(4) shall apply for purposes of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B).*

*(c) SUSPENSION OR TERMINATION REFERENDA.—Effective beginning three years after the date on which an order issued under this title is approved in a referendum conducted under subsection (a), the Secretary—*

*(1) at the Secretary's discretion, may conduct at any time a referendum of qualified handlers required to pay assessments under the order to ascertain whether or not qualified handlers favor suspension or termination of the order; and*

*(2) whenever requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, shall conduct a referendum of all qualified handlers required to pay such assessments to ascertain whether or not qualified handlers favor suspension or termination of the order.*

*(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—*

*(1) within six months after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and*

*(2) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.*

*(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.*

***SEC. 309. PETITION AND REVIEW.***

*(a) PETITION AND HEARING.—*

*(1) PETITION.—A person subject to an order issued under this title may file with the Secretary a petition—*

*(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and*

*(B) requesting a modification of the order or an exemption from the order.*

*(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 311(b)(2) and be held within the United States judicial district in which the person's residence or principal place of business is located.*

*(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.*

*(b) REVIEW.—*

*(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person that is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the Secretary's ruling on the person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling by the Secretary.*

*(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.*

*(3) REMAND.—If the court in a proceeding under this subsection determines that the Secretary's ruling on the person's petition is not in accordance with law, the court shall remand the matter to the Secretary with directions either—*

*(A) to make such ruling as the court shall determine to be in accordance with law; or*

*(B) to take such further action as, in the opinion of the court, the law requires.*

*(c) ENFORCEMENT UNDER SECTION 310.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 310.*

***SEC. 310. ENFORCEMENT.***

*(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this title or an order or regulation made or issued by the Secretary under this title.*

*(b) REFERRAL TO ATTORNEY GENERAL.—The Secretary shall refer to the Attorney General for appropriate action all cases of a violation of this title or an order or regulation made or issued by the Secretary under this title, except that the Secretary is not required to refer to the Attorney General such a violation if the Secretary believes that the administration and enforcement of this title would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.*

*(c) CIVIL PENALTIES AND ORDERS.—*

*(1) CIVIL PENALTIES.—A person that violates a provision of this title, or an order or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under an order or regulation issued under this title, may be assessed by the Secretary—*

*(A) a civil penalty of not less than $500 nor more than $5,000 for each such violation; and*

*(B) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.*

*(2) TREATMENT AS SEPARATE OFFENSES.—Each violation described in paragraph (1) shall be treated as a separate offense.*

*(3) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this title or an order or regulation issued under this title.*

*(4) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. The hearing shall be conducted in accordance with section 311(b)(2) and be held within the United States judicial district in which the person's residence or principal place of business is located.*

*(5) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).*

*(d) REVIEW BY DISTRICT COURT.—*

*(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—*

*(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which the person resides or carries on business, or in the United States district court for the District of Columbia; and*

*(B) simultaneously sending a copy of the notice by certified mail to the Secretary.*

*(2) FILING OF RECORD.—Upon the filing of a notice of appeal under paragraph (1), the Secretary shall promptly file in the district court in which the notice of appeal is filed a certified copy of the record on which the Secretary found that the person had committed a violation.*

*(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.*

*(e) FAILURE TO OBEY AN ORDER.—A person that fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d). Each day during which the failure continues shall be considered as a separate violation of the order.*

*(f) FAILURE TO PAY A PENALTY.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or carries on business. In such action, the validity and appropriateness of the civil penalty shall not be subject to review.*

*(g) ADDITIONAL REMEDIES.—The remedies provided in this title shall be in addition to, and not exclusive of, other remedies that may be available.*

***SEC. 311. INVESTIGATIONS AND POWER TO SUBPOENA.***

*(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this title, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this title, or any order or regulation issued under this title.*

*(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—*

*(1) INVESTIGATIONS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.*

*(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 309(a)(2) or 310(c)(4), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.*

*(c) AID OF COURTS.—*

*(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued under subsection (b). The court may issue an order requiring the person to comply with such a subpoena. Any failure to obey the order of the court may be punished by the court as a contempt thereof.*

*(2) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or carries on business or wherever the person may be found.*

***SEC. 312. CONFIDENTIALITY.***

*(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this title shall be made public.*

*(b) PENALTY.—Any person knowingly violating subsection (a) or the confidentiality terms of an order, as described in section 307(d), on conviction shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than one year, or both, and, if an officer or employee of the Department of Agriculture or the PromoFlor Council, shall be removed from office.*

*(c) ADDITIONAL PROHIBITION.—No information obtained under this title may be made available*

*to any agency or officer of the Federal Government for any purpose other than the implementation of this title and any investigatory or enforcement actions necessary for the implementation of this title.*

*(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this title authorizes the withholding of information from Congress.*

***SEC. 313. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.***

*Whenever the Secretary finds that an order issued under this title, or any provision of the order, obstructs or does not tend to effectuate the declared policy of this title, the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines appropriate.*

***SEC. 314. CONSTRUCTION.***

*(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or any provision thereof, shall not be considered an order under the meaning of this title.*

*(b) PRODUCER RIGHTS.—Nothing in this title may be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens. This title seeks to treat all persons producing cut flowers and cut greens fairly and to implement any order established hereunder equitably in every respect.*

*(c) OTHER PROGRAMS.—Nothing in this title may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or any State.*

***SEC. 315. REGULATIONS.***

*The Secretary may issue such regulations as are necessary to carry out this title and the powers vested in the Secretary by this title, including regulations relating to the assessment of late payment charges and interest.*

***SEC. 316. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.*

*(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for payment of the expenses or expenditures of the PromoFlor Council in administering any provision of an order issued under this title.*

***SEC. 317. SEPARABILITY.***

*If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.*

***TITLE IV—LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION***

***SEC. 401. SHORT TITLE.***

*This title may be cited as the "Lime Research, Promotion, and Consumer Information Improvement Act".*

***SEC. 402. FINDINGS AND PURPOSE.***

*(a) FINDINGS.—Congress finds the following:*

*(1) The Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.) was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.*

*(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.*

*(3) Although the intent of such Act was to cover seedless limes, the definition of the term "lime" in section 1953(6) of such Act (7 U.S.C. 6202(6)) applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.*

*(4) Since the enactment of such Act, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the limes produced in the United States are produced in Florida.*

*(b) PURPOSES.—The purpose of this Act is to amend the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.)—*

*(1) to cover seedless rather than seeded limes;*

*(2) to increase the exemption level;*

*(3) to delay the initial referendum date; and*

*(4) to alter the composition of the Lime Board.*

***SEC. 403. DEFINITION OF LIME.***

*Section 1953(6) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6202(6)) is amended by striking "citrus aurantifolia" and inserting "citrus latifolia".*

***SEC. 404. REQUIRED TERMS IN ORDERS.***

*(a) COMPOSITION OF LIME BOARD.—Subsection (b) of section 1955 of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204) is amended—*

*(1) in paragraph (1)(A), by striking "7" and inserting "3";*

*(2) in paragraph (2)(B), by striking "7" and inserting "3"; and*

*(3) in paragraph (2)(F), by adding at the end the following new sentence: "The Secretary shall terminate the initial Board established under this subsection as soon as practicable after the date of the enactment of the Lime Research, Promotion, and Consumer Information Improvement Act.".*

*(b) ALLOCATION OF MEMBERS.—Subsection (b)(2) of such section is amended—*

*(1) in subparagraph (B) (as amended by subsection (a)(2)), by adding at the end the following new sentence: "Of these producer members, 2 members shall be appointed from the district east of the Mississippi River and 1 member shall be appointed from the district west of the Mississippi River."; and*

*(2) in subparagraph (C), by adding at the end the following new sentence: "Of these importer members, 1 member shall be appointed from the district east of the Mississippi River and 2 members shall be appointed from the district west of the Mississippi River.".*

*(c) TERMS OF MEMBERS.—Subsection (b)(4) of such section is amended—*

*(1) by striking "Members of" and all that follows through "appointed—" and inserting "The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—";*

*(2) in subparagraph (A), by striking "3" and inserting "2";*

*(3) in subparagraph (B), by striking "4" and inserting "2"; and*

*(4) in subparagraph (C), by striking "4" and inserting "3".*

*(d) DE MINIMIS EXCEPTION.—Subsection (d)(5) of such section is amended by striking "35,000" each place it appears and inserting "200,000".*

***SEC. 405. INITIAL REFERENDUM.***

*Section 1960(a) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6209(a)) is amended by striking "Not later than 2 years after the date on which the Secretary first issues an order under section 1954(a)," and inserting "Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 1955(d),".*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for authorization language and legislative changes for four commodity research and promotion programs—what we commonly call commodity checkoff programs.

Three of the titles of H.R. 3515 make various changes in existing research and promotion programs—those for eggs, watermelons, and limes. Title III establishes a new checkoff program for the cut flower and cut greens industry.

The purpose of a checkoff program is to allow participants in an industry to join together to fund and operate national market and product development efforts for their commodity. Generally, the objective of these kind of industry-funded programs is to increase sales of the commodity through consumer education, product research and advertising and promotion activities.

H.R. 3115 was introduced by myself, Mr. ROBERTS of Kansas, Mr. STENHOLM of Texas, Mr. LEWIS of Florida, Mr. BOEHNER of Ohio, Mr. HOLDEN of Pennsylvania, and Mr. ENGLISH of Oklahoma. This bill bundles together, in amended form, four different bills that were introduced in this session of Congress. The committee met this week on H.R. 3515 and reported it out in amended form by voice vote.

This legislation has broad support in the industries affected. However, we understand concerns have been raised in some quarters about certain details of the legislation.

Similar legislation is working its way through the other body. We would like to try to work with our colleagues to address any outstanding concerns before the commodity research and promotion legislation is sent to the President.

Mr. Speaker, let me briefly explain the provisions of H.R. 3515:

Title I.—Title I amends the current egg checkoff program. The changes will allow for an increase in the maximum assessment rate, subject to approval through a producer referendum. The bill exempts those egg producers who have 75,000 laying hens or less from the assessment.

Title II.—Title II makes a number of changes in the current watermelon checkoff program. The key changes are: It lowers the referendum threshold; and it eliminates the refund of assessments, except for those producers or importers who market less than 75,000 pounds of watermelons a year.

Title III.—Title III establishes a new industry-funded checkoff program that has been requested by the handlers of fresh cut flowers and cut greens. H.R. 3515 establishes a 23-member PromoFlor Council and an administrative structure similar to that used for other checkoff programs.

During the first 3 years the PromoFlor Program is in effect, the bill stipulates that the rate of assessment on each sale or transfer of cut flowers or cut greens will be one-half of 1 percent of the gross sales price of product sold. After the first 3 years the order is in effect, the uniform assessment rate could be increased or decreased annually by a limited amount, but in no case could the assessment rate be more than 1 percent of gross sales.

An industrywide referendum on continuing the assessment is required to occur not later than 3 years after the Secretary of Agriculture has established the order. Concern had been expressed by some growers about the financial hardship the assessment might cause. The committee bill allows postponement of assessment collections for those growers that the Secretary of Agriculture determines would be adversely affected.

Title IV.—Title IV amends the research and promotion program for limes that was approved by Congress in 1990. The bill would: First replace the scientific name used in the underlying law with the correct scientific name; second, increase the assessment exemption level from 35,000 pounds per year to 200,000 pounds; third, require the referendum no later than 30 months after assessments begin; and fourth, it would alter the board composition to more fairly reflect the structure of the lime industry.

Mr. Speaker, I urge my colleagues to support passage of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank Chairman DE LA GARZA for his leadership in passage of this important legislation concerning the cut flower, watermelon, egg and lime research and promotion orders.

Many of these issues were considered before the Subcommittee on Specialty Crops and Natural Resources this year. After extensive review and industry input, I am pleased to support passage of this omnibus legislation. I also want to commend members of the Agriculture staff for their efforts and especially Stacy Steintz in preparing this legislation. I would say to the chairman of the Committee, his effort and commitment to passage of H.R. 3515 is greatly appreciated.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank the distinguished gentleman from Florida [Mr. LEWIS]. The gentleman has been very active in this legislation, and specifically on the lime promotion that impacts Florida, Texas, and California. I wish to thank the gentleman for his cooperation and also his availability to work with us in areas such as this.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, ordinarily I would not trample around in legislation of this nature with my dress boots on, but this morning I felt a little bit compelled.

Since I did not want anybody to think that I had just come to town on the back of a melon truck, I thought I should speak. Yet I do not want anybody to think I am trying to steal the limelight.

Nevertheless, not wanting to get egg on my face, since we have not had a chance to organize resistance against this, I will not call a vote. I am sure that act of courtesy will be met by the chairman and the members of the committee by the facetious comment, "Pin a rose on you." Still, nevertheless, I did feel compelled to come down here.

Mr. Speaker, this seems like a relatively harmless piece of legislation. It is very much in the most ordinary sense of the word, business as usual with the Committee on Agriculture, and ought not to attract much attention or dissension. Still, nevertheless, that is exactly why I did feel compelled to come down here and speak today.

We are not spending much money in this bill, $150,000 of taxpayer money so the Department of Agriculture can manage the marketing of eggs, watermelons, fresh cut flowers and limes; or, if not manage that itself, manage the management of it.

It is not much money. Still, I have some serious questions about it. Why is it, for example, that an ordinary person in commerce, maybe a merchant on the street, who might want to get together with his fellow merchants and put together a marketing consortium, would naturally call the other merchants and say, "Hey, fellows, ladies and gentlemen, should we get together? If we are going to hold an election to see the extent to which we all want to get together, shouldn't we kick in a little bit of money to organize the election and see who will or will not participate?"

In that case, as the consortium, among themselves, unless the Federal Government were to hold an antitrust suit against this and call it collusion, they might organize themselves after the fashion of the National Federation of Independent Business, where those who chose to be independent and not associate with the consortium would be free not only of the association, but any assessments that the members of the association voluntarily voted on themselves.

□ 1230

That is not quite the case here. In this case, the egg producers, the watermelon producers, the lime producers, the cut-flower producers did not call each other. They called their Congressman and they said, "Mr. Congressman, couldn't you get the Government to foot the bill to organize an election to see how many of us might want to voluntarily associate with one another to market our products?" And here we have, then, the taxpayers paying that bill.

Now, in this case, after the Government organizes the election and if the majority of the people involved vote to participate, those members that might, in fact, be called an independent producer, who do not want to participate, are not off the hook. The Government gives them an assessment.

Now, I can understand that if I voted yes and said I wanted to participate, that I might think that assessment of money, so many dollars, I think it is, in this case, for example, 30 cents per commercial case of eggs, I would see that as an assessment I voted unto myself for my right to participate in the program.

But what if I voted no and chose not to participate and got the assessment anyway? Would that not be a tax? Would we not be levying a tax and have the weight of the Federal Government compelling an independent egg producer to share the yoke of this burden and the yoke on their commercial enterprise? This is, of course, Norwegian for joke, but to share this burden.

My colleagues, this is not as benign as it appears. This is not a democratic support to the processes of commercial enterprise by free and independent men and women of agriculture. This is the heavy hand of Government managing the affairs of people in agriculture, whether they choose or not to be beneficiaries of this Government program.

This is truly a case for the truly independent love-the-earth farmer or rancher or flower cutter to look somebody in the face and say with disgust, again, "I don't believe it when you say, I am from the Government and I am here to help you."

This is coercion, perhaps in a mild form. What happens to that independent producer that chooses not to participate? Does that individual that believes himself free to be independent find himself prosecuted by the Federal Government because he did not pay his involuntary assessment or conform to the regulations of this democratic institution of agriculture policy?

I think we ought to think about these things a little more seriously.

Mr. LEWIS of Florida. Mr. Speaker, the gentleman's comment does not warrant a response.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

This is to assure the gentleman from Texas that we will look at these issues. We will continue looking at these issues.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 3515, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, ATMOSPHERIC AND SATELLITE PROGRAM AUTHORIZATION ACT OF 1993

Mr. HALL of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2811) to authorize certain atmospheric, weather, and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2811

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization Act of 1993".

### TITLE I—AUTHORIZATION OF APPROPRIATIONS

**SEC. 101. NATIONAL WEATHER SERVICE.**

(a) OPERATIONS AND RESEARCH.—There are authorized to be appropriated to the Secretary of Commerce (in this Act referred to as the "Secretary") to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service, $473,256,000 for fiscal year 1994 and $492,185,000 for fiscal year 1995. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) SYSTEMS ACQUISITION.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out the public warning and forecast systems duties of the National Weather Service, $76,299,000 for fiscal year 1994 and $14,600,000 for fiscal year 1995. Such duties include the development, acquisition, and implementation of major public warning and forecast systems. None of the funds authorized under this subsection shall be used for the purposes for which funds are authorized under section 102(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567). None of the funds authorized under this subsection for fiscal year 1995 shall be used for the purposes for which funds are authorized under subsections (c) and (d) of this section. No funds may be expended for Next Generation Doppler Weather Radar (NEXRAD) until the requirements of paragraph (2)(A) or (B) of such section 102(b) have been fulfilled by the Secretary. None of the funds authorized by such section 102(b) shall be expended for a particular NEXRAD installation unless—

(1) it is identified as a National Weather Service NEXRAD installation in the National Implementation Plan for modernization of the National Weather Service for fiscal year 1994, required under section 703 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567);

(2) the Secretary, in consultation with the Modernization Transition Committee established under section 707 of the National Oceanic and Atmospheric Administration Authorization Act of 1992, has made a determination of technical and programmatic necessity with respect to such installation and a period of 60 legislative days after the transmittal to the Congress of such determination, or the period between such transmittal and the next October 1, whichever period is longer, has passed; or

(3) it is to be used only for spare parts, not as an installation at a particular site.

For purposes of this subsection, the term "legislative day" means any day on which either House of Congress is in session.

(c) ASOS COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1994, an aggregate of $30,808,000, to remain available until expended, to complete the acquisition and deployment of—

(A) the Automated Surface Observing System and related systems, including multisensor and backup arrays for National Weather Service sites at airports; and

(B) Automated Meteorological Observing System and Remote Automated Meteorological Observing System replacement units,

and to cover all associated activities, including program management and operations and maintenance through September 30, 1996.

(2) No funds are authorized to be appropriated for any fiscal year under paragraph (1) unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary—

(A) certifies to the Congress that—

(i) the systems meet the technical performance specifications included in the system contract as in effect on February 20, 1991;

(ii) the systems can be fully deployed, sited, and operational without requiring further appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary does not foresee any delays in the systems deployment and operations schedule; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the systems deployment and operations schedule and systems coverage; and

(iv) a justification for proceeding with the program, if appropriate.

(d) AWIPS COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1994, an aggregate of $315,887,000, to remain available until expended, to complete the acquisition and deployment of the Advanced Weather Interactive Processing System and NOAA Port and to cover all associated activities, including program management and operations and maintenance through September 30, 1999.

(2) No funds are authorized to be appropriated for any fiscal year under paragraph (1) unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary—

(A) certifies to the Congress that—

(i) the systems meet the technical performance specifications included in the system contract as in effect on January 5, 1993;

(ii) the systems can be fully deployed, sited, and operational without requiring further appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary does not foresee any delays in the systems deployment and operations schedule; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the systems deployment and operations schedule and systems coverage; and

(iv) a justification for proceeding with the program, if appropriate.

(e) CONSTRUCTION OF WEATHER FORECAST OFFICES.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out construction, repair, and modification activities relating to new and existing weather forecast offices, $62,784,000 for fiscal year 1994 and $14,739,000 for fiscal year 1995. Such activities include planning, design, and land acquisition related to such offices.

**SEC. 102. ATMOSPHERIC RESEARCH.**

(a) CLIMATE AND AIR QUALITY RESEARCH.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research duties, $105,922,000 for fiscal year 1994 and $138,737,000 for fiscal year 1995. Such duties include interannual and seasonal climate research and long-term climate and air quality research.

(2) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under paragraph (1), $66,902,000 for fiscal year 1994 and $84,573,000 for fiscal year 1995 are authorized to be appropriated for the purposes of studying climate and global change, including global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, and fundamental research on oceanic and atmospheric processes critical to climate prediction and diagnostics.

(b) ATMOSPHERIC PROGRAMS.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties, $42,103,000 for fiscal year 1994 and $52,980,000 for fiscal year

1995. Such duties include research for developing improved prediction capabilities for atmospheric processes, as well as solar-terrestrial research and services.

**SEC. 103. NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE.**

(a) SATELLITE OBSERVING SYSTEMS.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties, $206,383,000 for fiscal year 1994 and $217,710,000 for fiscal year 1995, except that no funds may be expended for Geostationary Operational Environmental Satellite until the requirements of section 105(d)(2) (A) or (B) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567) have been fulfilled by the Secretary. Such duties include spacecraft procurement, launch, and associated ground station systems involving polar orbiting and geostationary environmental satellites, as well as the operation of such satellites. None of the funds authorized under this subsection shall be used for the purposes for which funds are authorized under section 105(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567). None of the funds authorized under this subsection for fiscal year 1995 shall be used for the purposes for which funds are authorized under subsection (b) of this section.

(b) POES COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary for all fiscal years beginning after September 30, 1994, an aggregate of $196,343,000, to remain available until expended, to complete the procurement of Polar Orbiting Environmental Satellites J, K, L, and M, and the procurement of the launching and supporting ground systems of such satellites.

(2) No funds are authorized to be appropriated for any fiscal year under paragraph (1) unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary—

(A) certifies to the Congress that—

(i) the satellite instruments meet the technical performance specifications included in the satellite contracts as in effect on July 27, 1988;

(ii) the procurements can be completed without requiring further appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary does not foresee any gaps in two-satellite service operations resulting from nonperformance of the satellite contract; or

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the launch schedule and satellite coverage; and

(iv) a justification for proceeding with the program, if appropriate.

(3) No funds for Polar Orbiting Environmental Satellites, other than for Polar Orbiting Environmental Satellites J, K, L, and M, are authorized to be appropriated under subsection (a) unless the Director of the Office of Science and Technology Policy submits an implementation plan for a single operational polar environmental and weather satellite system and the policy for polar satellite system convergence with the European Organization for the Exploitation of Meteorological Satellites (EUMETSAT).

(c) ENVIRONMENTAL DATA AND INFORMATION SERVICES.—There are authorized to be appropriated to the Secretary to enable the National Oceanic and Atmospheric Administration to carry out its environmental data and information services duties, $34,068,000 for fiscal year 1994 and $41,227,000 for fiscal year 1995. Such duties include climate data services, geophysical data services, and environmental assessment and information services.

**SEC. 104. PROGRAM SUPPORT.**

(a) ADMINISTRATION AND SERVICES.—There are authorized to be appropriated to the Secretary for Administration and Services, $73,319,000 for fiscal year 1994 and $76,252,000 for fiscal year 1995.

(b) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary for Aircraft Services and Aircraft Critical Safety and Instrumentation, $9,495,000 for fiscal year 1994 and $9,875,000 for fiscal year 1995.

**SEC. 105. LIMITATION ON APPROPRIATIONS.**

Notwithstanding any other provision of law, except as provided in section 101 (c) and (d) and section 103(b), no funds are authorized to be appropriated for any fiscal year after fiscal year 1995 for carrying out the programs for which funds are authorized by this Act. This section shall not apply to the programs described in section 102(a)(2) or section 104(a).

**TITLE II—MISCELLANEOUS PROVISIONS**

**SEC. 201. STRATEGIC PLAN FOR ENVIRONMENTAL RESEARCH LABORATORIES.**

(a) ASSESSMENT.—The Secretary shall conduct an assessment of the long-term role and mission of the Environmental Research Laboratories of the National Oceanic and Atmospheric Administration and the relevance of the research conducted therein to issues of global and national importance. In conducting such assessment, the Secretary shall take into consideration—

(1) the adequacy of resources provided to support the missions of the Environmental Research Laboratories;

(2) the ability of the Environmental Research Laboratories to provide research support for the coastal and ocean management and regulatory responsibilities of the National Oceanic and Atmospheric Administration;

(3) the capacity of the Environmental Research Laboratories to process and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate Federal departments and agencies;

(4) the mission of the Environment Research Laboratories to provide solar-terrestrial services to the Nation;

(5) the ability of the Environmental Research Laboratories to provide continued support for the modernization of weather services;

(6) the responsibilities of the Environmental Research Laboratories to monitor, assess, and predict changes in the Earth's climate;

(7) the capability of the Environmental Research Laboratories to integrate and interpret scientific data in order to provide information useful to policy makers for responding to national and global environmental concerns;

(8) the operational efficiency and effectiveness of the Environmental Research Laboratories;

(9) the interaction of the Environmental Research Laboratories with the academic community, including Joint and Cooperative Institutes, and the ability of these interactions to improve the quality and effectiveness of research;

(10) the number, location, and geographic distribution of the Environmental Research Laboratories; and

(11) any other issues that the Secretary may identify.

(b) COMPREHENSIVE STRATEGIC PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology and the Committee on Merchant Marine and Fisheries of the House of Representatives a comprehensive strategic plan, based on the assessment conducted under subsection (a), to modernize and improve the role and mission of the Environmental Research Laboratories of the National Oceanic and Atmospheric Administration. The assessment conducted under subsection (a) shall be submitted along with such plan.

**SEC. 202. HYDROLOGICAL RESEARCH AND FLOOD FORECAST MODERNIZATION REPORT.**

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report identifying the actions required to improve the hydrological research programs and to modernize the Flood Forecasting System of the National Weather Service.

(b) REPORT CONTENTS.—The report required under subsection (a) shall include consideration of—

(1) current, planned, and potential technological improvements in the collection of observational hydrological data;

(2) use of additional satellite remote-sensing data and airborne surveys, including those systems operated by other Federal agencies, for hydrological data collection;

(3) improvements in data analysis and computer modeling in support of flood forecasts and predictions; and

(4) full integration of the River Forecast Centers in the National Weather Service Modernization Plan.

**SEC. 203. SENSE OF CONGRESS.**

It is the sense of Congress that any transfers of National Weather Service employees from field offices necessitated by the National Implementation Plan for Modernization of the National Weather Service be carried out in a manner that will not result in the degradation of services in the service area of such field office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. HALL] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2811, the NOAA Atmospheric and Satellite Program Authorization Act of 1993.

I would like to thank my colleagues, the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology; Mr. WALKER, the ranking minority member of the committee; and Mr. SENSENBRENNER, the ranking minority member on the Subcommittee on Space, for their hard work and cooperation in bringing this bill to the floor today.

I would also like to thank the gentleman from Massachusetts [Mr. STUDDS], chairman of the Committee on Merchant Marine and Fisheries; the gentleman from Texas [Mr. FIELDS], the ranking member of the Merchant Marine and Fisheries Committee; Mr. ORTIZ and Mr. WELDON, the chairman and ranking member of the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf, for their efforts on this important legislation.

Mr. Speaker, H.R. 2811 authorizes $1.083 billion in fiscal year 1994, $1.161 billion in fiscal year 1995, and $543 million in fiscal years 1995–99 for the weather, satellite, and atmospheric research programs of the National Oceanic and Atmospheric Administration [NOAA].

The funding authorizations contained in H.R. 2811, coupled with the authorizations in Public Law 102–567, provide for the continued operation of all National Weather Service offices and for the procurement of new technology to modernize the National Weather Service. These programs include NEXRAD, the Next Generation Doppler Weather Radar Program, the Geostationary Operational Environmental Satellite Program [GOES], the Automated Surface Observing System [ASOS], the Advanced Weather Interactive Processing System [AWIPS], and others.

Funding authorizations are also provided for atmospheric and climate research activities, including NOAA's contribution to the U.S. Global Climate Change Research Program.

In addition to these authorizations, the bill also includes provisions dealing with assessments of NOAA's environmental research laboratories, and on improving the National Weather Services' flood forecasting system. With the serious flooding in the Midwest this summer, and the potential for additional flooding next spring, it is important that we take action to assess and improve our flood warning network.

Mr. Speaker, weather satellite images analyzed by the National Weather Service indicate that the soil in the Midwest is still very saturated. If we receive a heavy snowfall this winter, the probability of spring flooding will be very high. We should begin preparations for that possibility now. This legislation will help in that regard.

While the total funding authorization we are considering today is less than the administration's budget request, it will continue essential services and research activities during very difficult budgetary times.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Modernizing the National Weather Service will dramatically improve both the accuracy and timeliness of warnings which will save countless lives. The President's budget for fiscal year 1994 states: "Weather service modernization funding remains NOAA's highest priority * * *" H.R. 2811 fully authorizes the programs under the National Weather Service at the President's requested level.

NEXRAD, the advanced Doppler radar warning system, dramatically increases our ability to detect impending weather dangers such as thunderstorms, hail, strong winds, tornados, and wind shears. It will increase tornado warning lead times from the current average of 0–2 minutes to 20–30 minutes. With 0–2 minutes people have no time to react; with 20–30 minutes people will have adequate time to take cover in homes, schools, hospitals, and businesses. In the locations where NEXRAD's have been deployed and are being used by trained staff, the improvements in forecasting have been remarkable. The warning accuracy at these weather offices has jumped from 50 percent to 90 percent and the false warning rate has dropped from 80 percent to 20 percent.

ASOS, the automated surface observing system, will provide data on temperature, pressure, wind direction, wind speed, visibility, cloud ceiling heights, and the type and intensity of precipitation on a nearly continuous basis. This data will support aviation operations and weather forecasting operations. AWIPS, the advanced weather interactive processing system, is the central integrating point for the modernization effort. It will integrate all meteorological, satellite, and radar data at the National Weather Service field offices, in a rapid-response manner which will give meteorologists and hydrologists the ability to quickly prepare and disseminate warnings and forecasts.

H.R. 2811 authorizes Polar Orbiting Environmental Satellites [POES] J, K, L, and M through completion. No funds for the follow-on series of polar satellites are authorized until the Director of OSTP submits an implementation plan on convergence of the Nation's polar satellite systems—NOAA, DOD, NASA—and develops a policy for system convergence with the Europeans. Vice President Gore's National Performance Review estimates that the national convergence may save American taxpayers as much as $1.3 billion over the next 10 years.

The bill also contains complete program authorizations for both ASOS and AWIPS. The POES, ASOS, and AWIPS authorizations follow the same format as the complete program authorizations for NEXRAD and GOES, which were in last year's authorization (Public Law 102–567), signed into law by President Bush. Therefore all the technology efforts for systems acquisition and satellites have now been authorized through completion. We expect that costs will be contained within these authorized amounts and that the programs will be completed on time.

All of these complete program authorizations require an annual certification be submitted to Congress from the Secretary of Commerce certifying that the program: First, meets the technical performance specifications in the contract, second, does not require further appropriations, and third, is not expected to incur delays. If these requirements cannot be certified, the Secretary must submit a report to Congress detailing the reasons why a certification cannot be issued; what remedial actions may be taken; what the effect is on the program; and whether the program should proceed.

Numerous critical programs are authorized in this bill, and I urge my colleagues to support passage of H.R. 2811. I thank Chairman BROWN and Chairman HALL for their flexibility in including these complete project authorizations and caps in the bill.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from California, Mr. BROWN, chairman of the full Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank the gentleman for yielding, and I thank both him and the gentleman from Pennsylvania [Mr. WALKER] for their contributions to this legislation.

Mr. Speaker, I rise in support of H.R. 2811, the National Oceanic and Atmospheric Administration (NOAA) Atmospheric and Satellite Program Authorization Act of 1993.

H.R. 2811 provides the funding authorization for NOAA's atmospheric research, weather, and satellite programs. This includes the authorization for the operations of the National Weather Service, for NOAA's weather satellites, and for NOAA's global climate research activities.

Mr. Speaker, I would like to remind everyone about the critical importance of providing the funding authorizations for NOAA and the National Weather Service.

Many of our colleagues have seen firsthand the utter devastation brought on by the floods in the midwestern region of the United States. Last year we witnessed the brutality of Hurricanes Andrew and Iniki. Just last winter we saw the "storm of the century" pound the eastern half of the United States and disrupt air transportation throughout the Nation.

In spite of tremendous improvements in our ability to forecast severe weather, the technologies employed by the National Weather

Service continued to provide the most troublesome barrier to advancement.

The National Weather Service still relies on a number of vacuum tube radars installed around 1957. The communications and data processing equipment used by National Weather Service meteorologists is less capable than the current line of desk top computers. The last remaining U.S. Geostationary weather satellite is now operating beyond its 5-year designed lifetime. NOAA's Polar-Orbiting Weather Satellite Program suffered a setback this summer when the NOAA–13 satellite malfunctioned shortly after being placed in orbit.

Providing the funds necessary to modernize the National Weather Service clearly is an investment in America's future. It is an investment in life-saving equipment. It is also an economic investment.

In fact, a National Institute of Standards and Technology study conducted last year indicated that the economic benefits to the Nation are about eight times greater than the costs. The study also shows that, once the modernized weather system is in place, we will realize benefits of over $7 billion primarily through efficiency gains in key industrial sectors of the U.S. economy, such as commercial aviation, agriculture, construction, communications, electric power generation, and manufacturing.

The total funding authorization provided in this legislation is slightly less than the administration's budget request. However, it is sufficient to continue these essential life-saving services during very difficult budgetary times. I urge my colleagues to support this important legislation.

Mr. HALL of Texas. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS], who has made a major contribution to bringing this legislation to the floor and to the details within the legislation.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise in support of the National Oceanic and Atmospheric Administration authorization legislation, H.R. 2811, before the House.

The NOAA authorization that was enacted last year, Public Law 102–567, contained a provision on hurricane research. The legislation before the House today, includes funding for this and other hurricane research programs.

Several lessons were learned from hurricane Andrew that point out the need for more research.

For example, because of the lack of data on hurricane wind speeds near the surface, it was not predicted before it hit how strong Andrew's winds would be 20 or more miles inland.

This same situation could be repeated again in the future.

Prof. William Grey of Colorado State University, who has accurately predicted hurricane activity based on his research for several years, points out the lack of research funding.

He stated that hurricane research is viewed as a low priority within the agency and that more research money was available in 1957 than is available now.

The Science Committee and the House have been very supportive of increasing hurricane research at NOAA. Now, after Andrew, it is more important than ever before.

I want to thank Chairman BROWN and Ranking Member WALKER for their support of the hurricane research program contained in this legislation, as well as the chairman of the subcommittee, the gentleman from Texas [Mr. HALL], and the ranking Member, the gentleman from Wisconsin [Mr. SENSENBRENNER].

I also want to thank Curt Stanford of the majority staff and Shana Dale of the minority staff for their hard work on this bill.

Mr. WALKER. Mr. Speaker, I, too, want to add my thanks to the gentleman from Wisconsin [Mr. SENSENBRENNER], ranking Republican on the Subcommittee on Space, for his help in preparing this legislation.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. HALL] that the House suspend the rules and pass the bill, H.R. 2811, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. HALL of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1993

Mr. VALENTINE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1994) to authorize appropriations for environmental research, development, and demonstration for fiscal years 1994, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1994

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1993".

**SEC. 2. GENERAL AUTHORIZATION.**

(a) ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") $475,400,000 for fiscal year 1994 for the Office of Research and Development for environmental research, development, and demonstration activities and program management and support.

(2) AUTHORIZATIONS OF PROGRAMS AND ACTIVITIES.—Of the amount authorized in paragraph (1) for fiscal year 1994 for such Office, there are authorized to be appropriated for such fiscal year the following:

(A) For air related research, $126,000,000.

(B) For water related research, $49,000,000.

(C) For toxic chemical related research, $76,000,000.

(D) For lab and field expenses, $49,000,000.

(E) For headquarters expenses of such Office, $5,400,000.

(F) For multimedia related research expenses, $163,000,000.

(G) For program management expenses, $7,000,000.

(3) EFFECT ON OTHER AUTHORIZATION.—

(A) SUPERFUND.—Nothing in this Act shall affect amounts authorized for fiscal year 1994 for Superfund research activities as authorized by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99–499; 100 Stat. 1613).

(B) OTHER EPA OFFICES.—Nothing in this Act shall affect research, testing, studies, or other activities of other offices within the Environmental Protection Agency.

(b) LIMITATION ON CLOSING OFFICES AND REDUCTIONS-IN-FORCE.—The Administrator shall not close any Office of Research and Development field station, regional office, laboratory, or other research center, or permit any Office of Research and Development reduction-in-force, and no closing or reduction shall be finalized, unless at least 30 days prior to the issuing of any general notice of such closing or reduction the Administrator informs the appropriate legislative and appropriations committees of the House of Representatives and the Senate in writing of the reasons for such closing or reduction, the impact of such closing or reduction on carrying out the provisions of this Act, the details of such reduction or closing, and other pertinent information.

(c) AVAILABILITY.—Appropriations made pursuant to this Act shall remain available for obligation or expenditure for such periods as may be specified in the Acts making such appropriations.

(d) LIMITATION ON APPROPRIATIONS.—Nothing in this Act authorizes appropriations for the research, development, and demonstration activities of the Office of Research and Development of the Environmental Protection Agency for any fiscal year after fiscal year 1994.

(e) REPORT ON UNAUTHORIZED APPROPRIATIONS.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall submit a report to Congress which specifies—

(1) the portion of such appropriations which are for programs, projects, or activities not specifically authorized under subsection (a), or which are in excess of amounts authorized for the relevant program, project, or activity under this Act; and

(2) the portion of such appropriations which are specifically authorized under this Act.

**SEC. 3. FUNDAMENTAL RESEARCH PROGRAMS.**

(a) ESTABLISHMENT.—In addition to providing research support for the regulatory needs of the program offices, the Administrator shall establish in the Office of Research and Development separately identified research programs consisting of fundamental research on ecology and environmental science and fundamental research on exposure to, and effects of, environmental contamination. Such research shall be undertaken for the purpose of generating fundamental knowledge necessary to support efforts to identify, assess, and mitigate serious environmental risks.

(b) AUTHORITY.—In carrying out programs under this section, the Administrator may support research on environmental processes and trends, identification and assessment of potential environmental risks, and approaches to prevent and reduce such risks. The Administrator is authorized to establish and maintain resources, expertise, and facilities necessary to the advancement of the fundamental research programs established in this section.

(c) REPORT OF THE ADMINISTRATOR.—The Administrator shall biennially prepare and submit to the Congress and the Science Advisory Board referred to in subsection (d) a report containing the Administrator's assessment of the programs established pursuant to subsection (a).

(d) SCIENCE ADVISORY BOARD.—The Science Advisory Board established under the Environmental Research, Development, and Demonstration Authorization Act of 1978 (hereafter in this Act referred to as the "Science Advisory Board"), or a designated subcommittee thereof, shall—

(1) review the activities undertaken under the programs established under subsection (a);

(2) make recommendations on the appropriate balance between the fundamental research and the programmatic research undertaken by the Environmental Protection Agency and update such recommendations at least every two years;

(3) make any recommendations with respect to the programs established under subsection (a) that the Science Advisory Board considers to be appropriate; and

(4) every two years beginning in March 1994, submit to the Administrator and the Congress a report containing—

(A) an assessment of the most recent report of the Administrator prepared pursuant to subsection (c);

(B) the results of a review undertaken pursuant to paragraph (1); and

(C) the recommendations (with any updates thereto) made pursuant to paragraphs (2) and (3).

(e) CONFORMING AMENDMENT.—Section 2 of the Environmental Research, Development, and Demonstration Authorization Act of 1981 is amended by striking subsection (f).

**SEC. 4. ENVIRONMENTAL MONITORING AND ASSESSMENT PROGRAM.**

(a) ESTABLISHMENT.—The Administrator shall establish an Environmental Monitoring and Assessment Program to conduct environmental research and development to design a long-term environmental monitoring program to determine the current condition of, and trends in, the ecological resources of the United States.

(b) COORDINATION.—The Administrator shall coordinate the Environmental Monitoring and Assessment Program activities, including activities under the National Coastal Monitoring Act (33 U.S.C. 2801 et seq.), with the heads of other Federal agencies in order to identify, integrate, and fully utilize results of related efforts undertaken by other agencies and minimize duplication of efforts.

(c) ANNUAL REPORT.—The Administrator shall publish an annual report identifying and assessing the performance of the activities undertaken under the Environmental Monitoring and Assessment Program, the effectiveness of interagency coordination, and the contributions of multiagency research to the advancement of research goals.

(d) PUBLIC DATA.—The Administrator shall periodically submit to Congress and make publicly available a compilation of statistical data summaries and interpretive reports on ecological status and trends developed as a result of the Environmental Monitoring and Assessment Program.

**SEC. 5. MODERNIZATION PROGRAM.**

(a) MODERNIZATION PROGRAM.—The Administrator shall establish, from funds authorized to be appropriated in section 2, a modernization program for laboratories of the Office of Research and Development of the Environmental Protection Agency that are designed to identify, acquire, and maintain modern buildings, facilities, supplies, and equipment to conduct high quality research. In carrying out this section, the Administrator shall ensure that such buildings, facilities, supplies, and equipment meet, at a minimum, the standards generally accepted by the scientific community as appropriate for conducting research, including research instrumentation replacement standards.

(b) STUDIES.—The Administrator shall conduct studies in the Office of Research and Development—

(1) to evaluate and determine the adequacy of current buildings, facilities, supplies, and equipment and identify future building, facility, supplies, equipment and research instrumentation needs; and

(2) to identify and assess future research personnel needs and make recommendations for attracting and retaining qualified scientists, engineers and other personnel to meet such needs.

(c) DEADLINE FOR SUBMISSION.—The studies required by this section shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate within one year after the date of the enactment of this Act.

**SEC. 6. REPEAL OF 5-YEAR RESEARCH REPORT REQUIREMENT.**

(a) REPEAL.—Section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1976 is repealed.

(b) AMENDMENTS TO THE ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978.—The Environmental Research, Development, and Demonstration Authorization Act of 1978 is amended as follows:

(1) Strike section 4.

(2) Strike "including those defined in the five-year research plan" at the end of section 7(a).

(3) Strike section 8(c).

(4) Strike "The Administrator shall include" and all that follows through the end of the subsection in section 9(a).

**SEC. 7. SCIENCE ADVISORY BOARD.**

(a) ANNUAL REPORT.—The Science Advisory Board shall submit to Congress and to the Administrator an annual report that contains the views of the Science Advisory Board on proposed research programs as described in the President's budget for research, development, and demonstration activities at the Environmental Protection Agency. Such report shall be submitted to Congress as soon as practicable after the submission of the President's budget to Congress. The Administrator shall cooperate with the Director of the Science Advisory Board, particularly with respect to the timely provision of budget information to the Science Advisory Board, to allow the Science Advisory Board to carry out its duties under this subsection.

(b) EVALUATION.—The Science Advisory Board shall conduct periodic evaluations of selected areas of the current and planned research, development, and demonstration activities of the Environmental Protection Agency. The areas of evaluation shall be selected by the Science Advisory Board in consultation with the Administrator, the Office of Research and Development, other Agency programs, and appropriate committees of the Congress. Reports containing the Science Advisory Board's evaluations and recommendations shall be filed with such committees and the Administrator. The Administrator shall provide to such committees a written response to the Science Advisory Board's evaluation and recommendations within 60 days after the Science Advisory Board's report has been submitted.

(c) REVIEW OF CERTAIN RESEARCH ACTIVITIES.—The Science Advisory Board shall annually review the research activities of the Environmental Protection Agency under section 14(b)(2) and shall include the results of such review in the annual report required by section 7.

(d) SUBMISSION TO CONGRESS.—The Administrator shall submit to the Congress any report required by law to be submitted to the Administrator by the Science Advisory Board. The Administrator shall make any such submission not later than 60 days after the Administrator receives the report from the Science Advisory Board.

**SEC. 8. MISCELLANEOUS AUTHORIZATION FOR COOPERATIVE AGREEMENTS.**

In reviewing research, development and demonstration grant, contract, and cooperative agreement applications, the Administrator may enter into cooperative agreements to conduct appropriate scientific and professional reviews of such applications and may use research funds authorized by this Act for such cooperative agreements.

**SEC. 9. RESEARCH ACCOMPLISHMENTS REPORT.**

The Administrator shall submit an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate setting out the accomplishments of the research, development, and demonstration programs for which funds are authorized by this Act for the Office of Research and Development of the Environmental Protection Agency and the significance of such accomplishments to the Environmental Protection Agency's mission.

**SEC. 10. TECHNOLOGY TRANSFER AND INFORMATION EXCHANGE.**

The Administrator shall carry out a program of environmental technology transfer and exchange of scientific and technical information designed to make full and effective use of the research, development, and demonstration efforts of the Office of Research and Development of the Environmental Protection Agency. The Administrator may establish and maintain resources necessary to advance such technology transfer and information exchange program in the Office of Research and Development.

**SEC. 11. RESEARCH TO SUPPORT THE EVALUATION OF THE RISK OF ENVIRONMENTAL CONTAMINATION.**

(a) ESTABLISHMENT.—The Administrator shall establish in the Office of Research and

Development a separately identified risk assessment research program designed to improve the capability of the Environmental Protection Agency to identify, assess, and compare risks resulting from contamination of the environment.

(b) OBJECTIVES.—Under the program authorized by subsection (a), the Administrator may conduct research to—

(1) develop and improve methodologies for the comparison of such risks that result from contamination of different environmental media;

(2) identify and develop protocols for monitoring of pollutants and contaminants discharged to the environment;

(3) identify and develop methodologies for assessing and reducing risks to natural ecosystems;

(4) develop and improve methodologies for the assessment of noncancer risks and the integrated assessment of cancer and noncancer risks; and

(5) develop improved methodologies for evaluating the benefits, both quantitatively and qualitatively, of environmental protection activities, including improved methods to account for long-term environmental effects in the Agency's economic analysis.

**SEC. 12. LEAD RESEARCH PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to conduct research, including laboratory research in a controlled setting, on lead, in furtherance of laws regulating human exposure. The research shall also include the following:

(1) Research on state-of-the-art technologies for detecting and measuring lead levels in soil, dust, and other environmental media.

(2) Research on short-term and long-term cost-effective technologies for the removal of lead-based paint and in-place management techniques. Such research shall address the relative risk of, and the environmental protection afforded by, various options to remove or otherwise ameliorate the toxic effects of lead-based paint, including the potential adverse effects of removal, compared to other lead abatement methods.

(3) A long-term research study of environmentally compatible methods for, and costs of, permanent disposal, recycling, or recovery of lead in lead-contaminated soil, dust, or other environmental media.

(4) A long-term research study, in cooperation with other appropriate agencies, to examine the effectiveness of lead abatement activities.

(b) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Administrator shall consult with the heads of other appropriate Federal agencies with respect to the conduct of the research specified in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under section 2, there are authorized to be appropriated to the Administrator $2,400,000 to carry out activities under this section.

**SEC. 13. RISK ASSESSMENT RESEARCH PRIORITIES.**

(a) IDENTIFICATION OF PRIORITY RISK ASSESSMENT RESEARCH ISSUES.—

(1) REPORT.—Within six months after the date of the enactment of this Act, the Administrator shall submit to the Congress a report that identifies at least 10 environmental research issues—

(A) correlating to the environmental hazards which the Administrator estimates to be in the category of highest risk;

(B) regarding which there are, as determined by the Administrator, significant scientific uncertainties with respect to the assessment of such environmental risks; and

(C) with respect to which such uncertainties could be significantly reduced through research.

(2) CONTENTS OF REPORT.—In addition to the identification required by paragraph (1), the report referred to in such paragraph shall include—

(A) an assessment of the research that has been, or is being, conducted by the Environmental Protection Agency with respect to each issue identified under such paragraph;

(B) an identification, with respect to each such issue, of the significant scientific uncertainties that exist with respect to the assessment of the environmental risks posed by the issue;

(C) an identification of the research that needs to be conducted by the Environmental Protection Agency to reduce significantly such scientific uncertainties, the time it will take to conduct such research, and the cost of such research; and

(D) a list that identifies such issues in order of the priority in which such research should be conducted and includes the reasons for that priority.

(b) RESEARCH PROGRAM.—

(1) IN GENERAL.—The Administrator shall carry out a research program within the Office of Research and Development to reduce the scientific uncertainties with respect to the assessment of the environmental risks posed by the issues identified under subsection (a). In conducting the research, the Administrator shall consider the priority list referred to in subsection (a)(2)(D).

(2) ECONOMIC IMPACT ASSESSMENT.—As part of the research program conducted under paragraph (1), the Administrator shall conduct research to improve the methodologies used to assess the economic impact of technologies developed as a result of such research program.

(3) EFFECT ON OTHER AUTHORIZATION.—Nothing in this section shall affect amounts authorized for fiscal year 1994 for other research activities of the Environmental Protection Agency as authorized by any other law.

(c) BUDGET COORDINATION.—In the first budget submitted by the President to the Congress immediately following the submission required by subsection (a), and in the next four budgets submitted immediately after such budget, the Administrator shall include a report that identifies the research conducted by the Administrator in accordance with the priority list referred to in subsection (a)(2)(D).

**SEC. 14. REPORT ON OPPORTUNITIES FOR DEFENSE TECHNOLOGY TRANSFER IN DEVELOPMENT OF ENVIRONMENTALLY SENSITIVE PRODUCTS.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the Congress a report, prepared by the Office of Research and Development, that identifies opportunities for the technology transfer of defense-related research for environmental applications. The report shall include information on the development of environmentally sensitive products and processes that have dual-use or commercial application, such as—

(1) the reduced use of toxic, hazardous, and environmentally damaging substances;

(2) the development and employment of substitutes for such substances; and

(3) the reduction of emissions and waste generation in product design, manufacture, and maintenance in relevant areas of technology.

(b) CONSULTATION.—In preparing the report required under subsection (a), the Administrator shall consult with the heads of appropriate Federal agencies to identify the production and design capabilities that are applicable to the development of products and processes described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "defense-related research for environmental applications" means research funded by the Department of Defense to mitigate the environmental impact of activities carried out for military purposes.

**SEC. 15. FINANCIAL ASSISTANCE FOR RESEARCH ON DRINKING WATER DISINFECTION.**

(a) IN GENERAL.—Subject to subsection (b), the Administrator may enter into a cooperative agreement with a non-Government research foundation to conduct research on the disinfection of drinking water, including research on disinfection byproducts in drinking water. Of amounts authorized to be appropriated under section 2, there are authorized to be appropriated to the Administrator for fiscal year 1994 not more than $2,000,000 to carry out this section.

(b) FUNDING LIMITATION.—The research referred to in subsection (a) may not be conducted unless the Administrator receives from such foundation and provides for such research for fiscal year 1994 an amount that equals at least 50 percent of the total funding for the research.

**SEC. 16. INVESTIGATION OF CONTRACT PRACTICES.**

(a) IN GENERAL.—

(1) ARRANGEMENT FOR PREPARATION OF STUDY.—Not later than six months after the date of the enactment of this Act, the Administrator shall, consistent with applicable provisions of Federal procurement law, enter into an arrangement with a private entity to prepare a study on, and recommendations regarding, the acquisition and assistance management practices of the Office of Research and Development.

(2) CRITERIA FOR SELECTION OF ENTITY.—The private entity with which the Administrator enters into an arrangement under paragraph (1) is a business, legal, or environmental organization which, as determined by the Administrator—

(A) has substantial experience in Federal acquisition and assistance management procedures and regulations;

(B) has sufficient financial and labor capabilities to adequately carry out the duties of the entity under the arrangement referred to in paragraph (1); and

(C) is not subject to any conflicts of interest which would impair the ability of the entity to carry out its duties under such arrangement.

(b) CONTENTS OF STUDY.—The study prepared pursuant to subsection (a) shall include the following:

(1) A summary of the investigations and audits of the acquisition and assistance management practices of the Office of Research and Development conducted by the Office of the Inspector General of the Environmental Protection Agency since 1985.

(2) A summary of the policies and programs implemented by the Environmental Protection Agency since 1985 relating to acquisition and assistance management by the Office of Research and Development, with emphasis on any policy or program implemented in connection with, or as a result of, an investigation or audit by the Office of Inspector General of the Environmental Protection Agency or any other entity.

(3) An analysis of the acquisition and assistance management practices and procedures of the Office of Research and Development, including an analysis of the following:

(A) The adequacy of Office of Research and Development statements of work, assignments, technical directives, and similar control mechanisms, including the adequacy of the review of such statements and the amount of detail provided in such statements.

(B) The adequacy of the mechanisms for authorizing and reviewing contract charges and invoices, including mechanisms for independently verifying that such charges and invoices are reasonable and supportable.

(C) The level of actual competition in competitive bidding for contracts.

(D) The overall distribution of contracts by the Office of Research and Development and any reliance on particular contractors that may result from such distribution.

(E) The adequacy of the Office of Research and Development staffing qualifications and training with respect to acquisition and assistance management.

(F) Specific recommendations of the entity regarding management practices and internal controls to remedy problems in acquisition and assistance management practices of the Office of Research and Development exposed as a result of the study.

(G) An estimate of the cost and effectiveness of carrying out the recommendations provided in subparagraph (F).

(c) REPORTS.—

(1) REPORT TO THE ADMINISTRATOR.—Not later than one year after the date the Administrator enters into an arrangement with a private entity under subsection (a), the private entity shall submit to the Administrator the study prepared pursuant to such subsection.

(2) REPORT TO CONGRESS.—Not later than two weeks after the Administrator receives the study required to be submitted under paragraph (1), the Administrator shall submit the study to the Congress together with any comments of the Administrator with respect to the report.

(d) FUNDING.—Of amounts authorized to be appropriated under section 2, there are authorized to be appropriated to the Administrator not more than $500,000 to carry out this section.

**SEC. 17. PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this Act, or under any amendment made by this Act, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this Act, or under any amendment made by this Act, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. VALENTINE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1994 authorizes the Environmental Protection Agency's Office of Research and Development for fiscal year 1994 at a level of $475,400,000. Specifically, the bill authorizes funding at the levels requested by the administration for research and development in support of the various regulatory statutes for which the Agency is responsible.

Mr. Speaker, H.R. 1994 directs the Administrator to establish a fundamental research program to improve our understanding of the functioning of the basic environmental systems upon which we depend and how human activities effect those systems. Other sections authorize the Environmental Monitoring and Assessment Program, the Science Advisory Board, a risk assessment research program, and a study to examine ORD's contract management practices.

I am pleased with the way the Democratic and Republican staffs of the Science Committee were able to work together to get this bill to the end of the session. This would have been impossible without the collegiality of the ranking member of the subcommittee, Mr. LEWIS, and the ranking member of the Science Committee, Mr. WALKER.

I would also like to thank our staff, Mark Harkins, Barry Gold, Jim Turner, and Michael Rodemeyer, for all their hard work on this bill, as well as to acknowledge the dedicated support they received from Paddy Link, Jim Greene, and Dave Clement.

Mr. Speaker, since the Science Committee ordered this bill reported on June 30, staff of our committee have been in extensive negotiations with staffs of the Merchant Marine and Fisheries and the Energy and Commerce Committees to create the consensus draft upon which we are voting on today. I appreciate the support that we have received from Chairman STUDDS and Chairman DINGELL which allows us to consider this bill under suspension today.

I believe this legislation gives necessary guidance to the Agency as to where the Congress believes resources should be concentrated. In addition, this bill promotes comprehensive and high-quality scientific research. This improved research effort is required as a foundation for informed decision-making to address the constantly changing environmental challenges facing the United States.

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Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House, the Environmental Research, Development, and Demonstration Authorization Act of 1993, H.R. 1994, is very important.

In order to protect the environment in a cost-effective manner, it is absolutely necessary that the policy be based on sound scientific data. H.R. 1994 directs EPA to undertake the research necessary to accomplish this goal.

Serious questions have been raised about the quality and quantity of research at EPA. At subcommittee hearings, we heard testimony that approximately 10 percent of the EPA R&D budget is actually spent on research. This trend must be reversed so that 90 percent is spent on research.

H.R. 1994 contains provisions calling for more basic science research.

Also during the hearings we heard testimony that many of EPA's regulations are based on incomplete scientific research.

Consequently, billions of dollars are spent with no benefit to human health. For example, the $20 billion mandated asbestos removal from public buildings program, has now been determined by EPA to have been a mistake. It created more health risk from asbestos dust than was caused by leaving it in place.

H.R. 1994, calls for more risk assessments and scientific review.

The bill before us is not perfect, but it is a good start toward improving the quality and quantity of EPA's research.

I want to thank subcommittee Chairman VALENTINE for his willingness to include provisions from minority Members in H.R. 1994 and for his efforts to work out any differences.

I also want to thank Chairman BROWN and ranking Member WALKER for their leadership in working out any differences in the legislation.

I also want to thank the staff who have worked on this bill—Mike Rodemeyer and Mark Harkins of the majority staff and Jim Greene and Paddy Link of the minority staff. Finally, I want to thank our staff assistants Karen Pearce and Kirstin Polhemus.

Mr. Speaker, I reserve the balance of my time.

Mr. VALENTINE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I will echo the remarks of appreciation to all of the people who cooperated so well in this in bringing this bill to the floor, including our colleagues in the Committee on Merchant Marine and Fisheries and the Committee on Energy and Commerce and their respective chairmen.

If I may, I would express a special appreciation to the gentleman from Pennsylvania [Mr. WALKER] for his cooperation, without endangering his role as the firebrand of his party, I would like to say that. We managed to work together with the gentleman from Pennsylvania [Mr. WALKER] over a long period of time in constructive cooperation, and I hope we will be able to continue to do that.

Mr. Speaker, I would like to thank the gentleman for yielding time and I

commend the chairman, Mr. VALENTINE, and the ranking member, Mr. LEWIS, of the Technology, Environment and Aviation Subcommittee of the Science Committee, for their hard work and cooperation in ensuring that this bill is before us for a vote today.

I particularly want to commend the ranking member of the full committee, Mr. WALKER, for his cooperation and contributions to the bill before us this morning. It is significant that the bill before us today represents a strong bipartisan consensus on the environmental research and development policies and priorities of the EPA.

In addition, I would like to echo the gentleman from North Carolina's comments concerning the work of our very able staff and the help our committee received from the Energy and Commerce and the Merchant Marine and Fisheries Committees in producing this amended text and for allowing it to be considered under suspension of the rules.

This bill, I believe, is an important step toward ensuring that EPA spend its limited research and development resources to produce a comprehensive and credible base of sound science. Sound science, with an increased emphasis on risk assessment, can help the agency to address the major environmental problems facing this country.

Passage of this legislation will confirm the House's desire to balance the applied research needed to support EPA's regulatory missions with the fundamental research needed to advance our basic scientific knowledge of the fate, transport, and effects of pollutants. Section 3 of the bill requires the administrator to support research programs consisting of fundamental research on ecology, and on exposure to, and the effects of, environmental contamination.

Section 7 of the bill specifies what the Congress expects from the Science Advisory Board, especially with regard to its review of the President's budget submissions for EPA and review of the overall management and direction for EPA's research programs. I will remind Members that we created this body, through legislation originating in the Science Committee, to do independent peer review of the science being conducted by the Agency.

Many times I have heard witnesses indicate that sound regulations can only be based on sound science. This bill demonstrates that the Congress is serious in meeting its obligation of ensuring that EPA produces credible science which in turn will lead to more precision and accuracy in EPA's regulatory programs.

While there is little of controversy in this legislation, I believe it is an important part of the House's agenda. The last time the House passed an authorization for EPA's Office of Research and Development was in the 101st Congress. I believe it is important for Congress to once again, on a regular basis, let EPA know its priorities for the investment of EPA research and development resources.

I encourage my colleagues to support the bill.

Mr. LEWIS of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the ranking member of the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I certainly wish to congratulate everyone for the extensive bipartisan negotiations which successfully conclude here with action on the floor today.

I agreed to bring this bill to the floor largely because of that, and I thank the gentleman from California for indicating that cooperative relationship on this and other things. I think it is nice that we are bringing H.R. 1994 to the floor as we close out the legislation session for 1993. Maybe this is a harbinger of cooperation for the upcoming year on many things.

I also wish to commend the chairman, the gentleman from California [Mr. BROWN], and the chairman, the gentleman from North Carolina [Mr. VALENTINE] for this, and my good friend, the gentleman from Florida [Mr. LEWIS]. I think the people who watch C-SPAN are going to come to the conclusion that he is the single hardest-working Member of Congress after being out here for an ag bill and two science bills and so on, and they would not be far wrong on that, by the way, but he is doing yeoman service out here, and I appreciate the work that he did on this measure.

While the funding level contained in this bill reflects the administration's budget request, it is a figure approximately $15 million to $16 million higher than the fiscal year 1994 enacted appropriations adopted by the Congress. I agreed to bring this bill to the floor with the higher figure so that EPA does have the flexibility to reprogram if necessary from funds already appropriated for other purposes.

Under no circumstances should EPA attempt to seek a future supplemental based upon the $475.4 million authorization contained in 1994, but they do gain flexibility out of this which hopefully will aid them in their administration and aid them in strengthening their programs.

During our consideration of this bill, several amendments were adopted. One offered by the gentleman from Minnesota [Mr. GRAMS] recommended a freeze level for the EPA's Office of Research and Development for fiscal year 1994. This amendment failed in committee on a 16 to 16 vote. Let me tell you why I think so many of us believe that this freeze may be a very reasonable course of action and why it would have been nice to include it in the bill.

First, the increase in H.R. 1994 represents a 14-percent increase over last year's appropriation. Few other agencies have seen such an increase in their budget. NASA's budget, for example, was increased a mere 1.9 percent over last year's figure.

Second, many increases sought by the administration in fiscal year 1994 are not for core research programs. Many of the increases requested by the administration will not remain in the Office of Research and Development but will pass through to other offices of EPA, to the Commerce Department, to the Office of Science and Technology Policy in the White House, among other agencies.

There are lots of us on both sides of the aisle, I think, who believe that if these funds are not to remain within the Office of Research and Development that then they will not be used to support the core research programs that are most in need of funding. I know that there is bipartisan concern within the committee which extends to the fact that we should exercise our oversight responsibility over the Office of Research and Development and ensure that the research mission is not hindered by passthroughs or other earmarked funds.

So as we approve this bill, I hope that we will also understand that the real desire of many members of the committee is to ensure that that core research gets done and that we do, as the gentleman from Florida [Mr. LEWIS] has described, provide the research based upon which good regulation can be built, and we do not make foolish environmental mistakes for lack of information.

I think that this particular funding and authorization can lead us in the right direction. That cannot happen if we continue to pull down that core program and pass the money through, and this bill gives EPA some flexibility and should be passed by the House of Representatives.

Mr. VALENTINE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON], a member of our subcommittee.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 1994, the Environmental Research, Development and Demonstration Authorization Act of 1993.

This bill represents several months of bipartisan work to create a framework to address fundamental research questions about the environment using long-term, innovative methodologies.

Authorizing over $400 million in programs, H.R. 1994 will provide for the establishment of an environmental monitoring and assessment program; expand biological diversity research, lead research and risk assessment research.

I support H.R. 1994 for another reason as well.

All too often, low-income communities are subjected to decades of toxic and hazardous waste dumping.

Even with the many advanced technologies that are available today, we do not have a very clear idea of how chronic exposure to hazardous chemicals affects residents' health.

Nor do we have much in the way of long-term solutions to abate these hazards. Traditional removal techniques which use moving soil from one low-income community to another are an unacceptable quick-fix.

H.R. 1994 takes strong steps toward developing the information necessary to clean up the many dangerous health and environmental hazards which exist today.

I would like to thank the chairman and the gentlewoman from Maryland for their leadership.

Mr. LEWIS of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. GRAMS], a valued member of our committee.

Mr. GRAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1994, the Environmental Research, Development and Demonstration Authorization Act and commend my chairman and ranking member on the Technology, Environment and Aviation Subcommittee as well as the leadership of the entire Science Committee. With their help, we were able to address a number of concerns which I had over the original bill, and bring this important piece of legislation up today before the House recesses.

The work of the EPA Office of Research and Development is extremely important to the environment, as well as to the individuals and businesses that find themselves regulated as a result of the environmental laws enacted by the Congress. This office is responsible for researching the environmental risks associated with a practice, and for developing technologies aimed at reducing those risks.

When H.R. 1994 came before the Science Committee for consideration, there was strong bipartisan support for this legislation. I was pleased that this bipartisan spirit carried over to support a number of amendments I offered to this bill.

Mr. Speaker, I would like to thank my colleagues on the Science Committee for supporting amendments to sunset the bill after the expiration of the authorization and just as importantly, by supporting an economic impact amendment to ensure that the research conducted, and the technologies developed by the EPA ORD include data on the relative impact on individuals and on businesses. I believe these provisions all represent important steps in ensuring the future health of our economy.

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Mr. LEWIS of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. ZIMMER], another valued member of the committee.

Mr. ZIMMER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 1994. It is a good piece of legislation. I would like to discuss one specific section, which I sponsored, which is called the worst first provision.

You may be aware that a recent independent study of the EPA disclosed that fully 80 percent of the budget of the EPA has been spent on relatively low-priority risks. We just cannot afford to misallocate the resources of the Environmental Protection Agency in this way.

That is why I am delighted that as a first step we have mandated in this piece of legislation that the Office of Research and Development identify the research issues which relate to the areas of highest risk to human health and the environment and that the money spent by the Office of Research and Development be concentrated on those areas of highest risk.

We are too often flying blind when we make environmental policy decisions, and we often have the least information about the risks which pose the greatest threat to human health and the environment. That is why I am delighted that this provision has been included in the legislation and why I am hopeful that, when the legislation to make the EPA a Cabinet department is considered, we will adopt risk assessment provisions applicable to the new department so that we will be able to better address the hazards that pose the greatest risk to human health and the environment rather than becoming transfixed and obsessed with the "pollutant of the month."

Mr. VALENTINE. Mr. Speaker, I include in the RECORD committee correspondence relating to H.R. 1994.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
*Washington, DC., November 16, 1993.*

Hon. JOHN D. DINGELL,
*Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Committee on Science, Space, and Technology ordered reported H.R. 1994, the Environmental Research, Development, and Demonstration Authorization Act of 1993," on June 30, 1993. Subsequent to the Committee's action, the Committee on Energy and Commerce indicated substantive and jurisdictional concerns about the bill as ordered reported by the Committee. We refrained from filing the report on H.R. 1994 in order to give our staffs an opportunity to discuss those issues and determine whether they could be accommodated without the need for the Committee on Energy and Commerce to seek a sequential referral. We believe that we have reached a compromise text which addresses those concerns.

We hope to be able to bring this bill to the floor under suspension of the rules prior to the expected adjournment later this month. In return for an agreement by your Committee not to seek a sequential referral of H.R. 1994 as reported, I would agree to offer the attached compromise text as the Committee vehicle for consideration under suspension of the rules.

To expedite the bill's consideration, I agree to support your Committee's request for conferees on H.R. 1994, recognizing, of course, that the Speaker ultimately possesses the authority to make that determination. However, it should be understood that your Committee's decision not to seek a sequential referral, and our Committee's decision to support the appointment of Energy and Commerce conferees to H.R. 1994, would be without prejudice to any jurisdictional claims that either of our Committees may assert concerning H.R. 1994 or similar legislation in the future.

I appreciate the continuing efforts to work cooperatively on issues of mutual interest.

Sincerely,

GEORGE E. BROWN, Jr.,
*Chairman.*

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COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, November 17, 1993.*

Hon. GEORGE E. BROWN, Jr.,
*Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of November 16, 1993, regarding H.R. 1994, the Environmental Research, Development, and Demonstration Authorization Act of 1993. As your letter notes, the Committee on Energy and Commerce believes that a number of the provisions in the bill as ordered reported by the Committee on Science, Space, and Technology are within the jurisdiction of this Committee. In view of your Committee's willingness to offer the amendments that we have jointly agreed to, however, and in view of your desire to move the bill on suspension prior to the impending adjournment, I would agree not to seek a sequential referral of H.R. 1994 with the further understanding that this waiver would be without prejudice to our jurisdictional claims over H.R. 1994 and similar bills that may be offered in the future and that this Committee's jurisdiction will be protected through the appointment of conferees should H.R. 1994 go to conference.

With those agreements, I would not object to the consideration of H.R. 1994, as amended, under suspension of the rules.

With every good wish.

Sincerely,

JOHN D. DINGELL,
*Chairman.*

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COMMITTEE ON MERCHANT MARINE AND FISHERIES,
*Washington, DC, November 18, 1993.*

Hon. GEORGE E. BROWN, Jr.,
*Chairman, Committee on Science, Space, and Technology, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Committee on Merchant Marine and Fisheries believes that a number of the provisions in H.R. 1994, the Environmental Research, Development, and Demonstration Authorization Act of 1993, as ordered reported by the Committee on Science, Space, and Technology, are within the jurisdiction of this Committee. The Committee on Merchant Marine and Fisheries

has a particular interest in provisions relating to biodiversity and ecological research, and monitoring of ecological resources.

In view of your desire to take this bill before the House of Representatives under suspension of the rules prior to adjournment of this session, I would agree not to seek a sequential referral of H.R. 1994 under the following conditions: (1) that the Committee amendment to H.R. 1994 consist of the amendments to which we have jointly agreed; (2) that the Merchant Marine and Fisheries Committee's jurisdictional claims be protected through the appointment of conferees on appropriate provisions of the bill, at the discretion of the Speaker of the House, should the bill go to conference; and (3) that this Committee's decision not to seek sequential referral of H.R. 1994 be without prejudice to any jurisdictional claims over that bill or over similar legislation in the future.

With this understanding, I would have no objection to the consideration of H.R. 1994, as amended, under suspension of the rules.

With kind regards.

Sincerely,

GERRY E. STUDDS,
*Chairman.*

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COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
*Washington, DC, November 18, 1993.*

Hon. GERRY E. STUDDS,
*Chairman, Committee on Merchant Marine and Fisheries, Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Committee on Science, Space, and Technology ordered reported H.R. 1994, the "Environmental Research, Development, and Demonstration Authorization Act of 1993," on June 30, 1993. Subsequent to the Committee's action, the Committee on Merchant Marine and Fisheries indicated substantive and jurisdictional concerns about the bill as ordered reported by the Committee. We refrained from filing the report on H.R. 1994 in order to give our staffs an opportunity to discuss those issues and determine whether they could be accommodated without the need for the Committee on Merchant Marine and Fisheries to seek a sequential referral. As per your letter of November 18, 1993, we believe that we have reached an agreement.

We hope to be able to bring this bill to the floor under suspension of the rules prior to the expected adjournment later this month. In return for an agreement by your Committee not to seek a sequential referral of H.R. 1994, I would agree to offer the attached compromise text as the Committee vehicle for consideration under suspension of the rules.

I further agree that your Committee's decision not to seek a sequential referral would be without prejudice to any jurisdictional claims over H.R. 1994 or similar legislation in the future that the Committee on Merchant Marine and Fisheries could make; and that I will not oppose your Committee's request for conferees on those provisions within your Committee's jurisdiction, recognizing, of course, that the Speaker ultimately possesses the authority to make that determination.

I appreciate the continuing efforts to work cooperatively on issues of mutual interest.

Sincerely,

GEORGE E. BROWN, Jr.,
*Chairman.*

Mr. LEWIS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VALENTINE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from North Carolina [Mr. VALENTINE] that the House suspend the rules and pass the bill, H.R. 1994, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes.".

A motion to reconsider was laid on the table.

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## VIOLENCE AGAINST WOMEN ACT OF 1993

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1133) to combat violence and crimes against women, as amended.

The Clerk read as follows:

H.R. 1133

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1993".

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1993".

**Subtitle A—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women**

**SEC. 111. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

**"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN**

**"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.**

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, and other eligible entities to develop effective law enforcement and prosecution strategies to combat violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide funds for personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women to reduce the rate of violent crime against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors that specifically target violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, or services specifically devoted to the prevention of, identification of, and response to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or identifying and tracking arrests, protection orders, prosecutions, and convictions for the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence; and

"(6) aiding Indian tribe grantees, exclusively, in financing the payments required under sections 112 and 113 of the Violence Against Women Act of 1993.

**"SEC. 1702. STATE GRANTS.**

"(a) GENERAL GRANTS.—The Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, Indian tribes, units of local government, tribal organizations, and nonprofit nongovernmental victim services programs in the States or Indian country.

"(b) APPLICATION REQUIREMENTS.—Applications shall include—

"(1) documentation from prosecution, law enforcement, and victim services programs to be assisted that demonstrates—

"(A) the need for grant funds;

"(B) the intended use of grant funds; and

"(C) the expected results;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided pursuant to section 112 of the Violence Against Women Act of 1993, except that Indian tribes are exempt from such requirement; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases pursuant to section 113 of the Violence Against Women Act of 1993.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (b), an eligible entity shall be eligible for funds provided under this part by—

"(1) certifying that funds received under this part shall be used for the purposes outlined in section 1701(b); and

"(2) certifying that grantees shall develop a plan, implement such plan, and otherwise consult and coordinate with nonprofit nongovernmental domestic violence and sexual assault victim services programs, law enforcement officials, victim advocates, prosecutors, and defense attorneys;

"(3) providing documentation from the individuals and groups listed under paragraph (2) regarding their participation in development of a plan and involvement in the application process, as well as how such individuals and groups will be involved in implementation of the plan;

"(4) providing assurances that the plan developed under paragraph (2) shall meet the needs of racial, cultural, ethnic, and language minority populations;

"(5) providing assurances that prosecution, law enforcement, and nonprofit nongovernmental victim services programs in the community to be served by such plan each receive an equitable percentage of any funds allocated under this part; and

"(6) providing assurances that any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(d) DISBURSEMENT OF FUNDS.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Director shall either disburse the appropriate sums provided for under this part or shall inform the applicant regarding why the application does not conform to the requirements of this section.

"(2) RESPONSIBILITY OF DIRECTOR.—In disbursing funds under this part, the Director shall issue regulations—

"(A) to distribute funds equitably on a geographic basis, including nonurban and rural areas of varying geographic size; and

"(B) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas.

"(e) GRANTEE REPORTING.—(1) Not later than March 31 of each year during which funds are received under this part, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this part.

"(2) The grantee shall arrange for assessments of the grantee's program from all organizations and government entities that were involved in the design of the grant plan.

"(3) Such assessments must be sent directly to the Director by the assessing entity.

"(f) SUSPENSION OF FUNDING.—The Director shall suspend funding for an approved application if—

"(1) an applicant fails to submit an annual performance report;

"(2) funds provided under this part are expended for purposes other than those set forth under this part; or

"(3) grant reports or accompanying assessments demonstrate to the Director that the program is ineffective or financially unsound.

**"SEC. 1703. GENERAL DEFINITIONS.**

"For purposes of this part—

"(1) the term 'domestic violence' means crimes of violence committed against a victim by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who is cohabiting with or has cohabited with the victim as a spouse, an individual similarly situated to a spouse, or any other individual who is protected under domestic or family violence laws of the jurisdiction that receives a grant under this part;

"(2) the term 'eligible entity' means a State, unit of local government, Indian tribe, and a nonprofit, nongovernmental victims services program;

"(3) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians;

"(4) the term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code;

"(5) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(6) the term 'victim services program' means a nongovernmental nonprofit program that assists domestic violence or sexual assault victims, including nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, and other sexual assault and domestic violence programs, including nonprofit nongovernmental organizations assisting domestic violence and sexual assault victims through the legal process.

**"SEC. 1704. GENERAL TERMS AND CONDITIONS.**

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under section 1702, the Attorney General may request any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support State, tribal, and local assistance efforts under this part.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Congress a report that includes, for each State and Indian tribe—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated for each of the fiscal years 1994 and 1995, $200,000,000 to carry out the purposes of part Q, with not less than 8 percent of such appropriation allotted specifically for Indian tribes.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and O" and inserting "O, and Q"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "or O" and inserting "O, or Q".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—GRANT TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec.1701. Purpose of the program and grants.

"Sec.1702. State grants.

"Sec.1703. General definitions.

"Sec.1704. General terms and conditions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec.1801. Continuation of rules, authorities, and proceedings".

**SEC. 112. RAPE EXAM PAYMENTS.**

(a) RESTRICTION OF FUNDS.—No State is entitled to funds under this title unless the State incurs the full out of pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

(b) MEDICAL COSTS.—A State shall be deemed to incur the full out of pocket cost of forensic medical exams for victims of sexual assault if such State—

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams, if—

(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(B) the State permits victims to apply to the State for reimbursement for not less than one year from the date of the exam;

(C) the State provides reimbursement not later than 90 days after written notification of the victim's expense; and

(D) the State provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

**SEC. 113. FILING COSTS FOR CRIMINAL CHARGES.**

No State is entitled to funds under this title unless the State certifies that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

**SEC. 114. EQUITABLE TREATMENT OF RAPE CASES.**

No State is entitled to funds under this title unless the State can certify that its laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, social companions of, or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

## Subtitle B—Rape Prevention Programs

## CHAPTER 1—RAPE PREVENTION GRANTS

**SEC. 121. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 111, is further amended by—

(1) redesignating part R as part S;

(2) redesignating section 1801 as section 1901;

and

(3) adding after part Q the following new part:

**"PART R—RAPE PREVENTION PROGRAMS**

**"SEC. 1801. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') is authorized to make grants—

"(1) to provide educational seminars, particularly developed with emphasis on seminars for elementary and secondary school age children, designed to develop an awareness of what acts meet the legal definition of rape;

"(2) to provide programs for elementary and secondary school age children that teach nonviolent conflict resolution, self defense, or other relevant skills;

"(3) to operate telephone hotlines for callers with questions regarding sexual assault and rape;

"(4) to design and disseminate training programs for professionals, including the development and dissemination of protocols for the routine identification, treatment, and appropriate referral of victims of sexual assault by hospital emergency personnel and other professionals;

"(5) to develop treatment programs for convicted sex offenders and make such programs available to the local community and to Federal and State prisons;

"(6) to prepare and disseminate informational materials designed to educate the community regarding sexual assault and prevention; and

"(7) to develop other projects to increase awareness and prevention of sexual assault, including efforts to increase awareness of sexual assault prevention among racial, ethnic, cultural and language minorities.

**"SEC. 1802. APPLICATIONS.**

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a duly authorized representative of an eligible entity shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) ASSURANCES.—Each application must contain an assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) REQUIRED PLAN.—Each application shall include a plan that contains—

"(1) a description of the projects to be developed;

"(2) a description of how funds would be spent;

"(3) a statement of staff qualifications and demonstrated expertise in the field of rape prevention and education; and

"(4) a statement regarding the ability to serve community needs and language minority populations in providing ethnically and culturally and linguistically appropriate programs where necessary.

**"SEC. 1803. REPORTS.**

"(a) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, each grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this subpart, the Director shall submit to the Congress a report that includes, for each grantee—

"(1) the amount of grants made under this subpart;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.

**"SEC. 1804. DEFINITIONS.**

"For purposes of this part—

"(1) the term 'eligible entity' means a nonprofit, nongovernmental organization that directly serves or provides advocacy on behalf of victims of rape or sexual assault; and

"(2) the term 'sexual assault prevention and education' means education and prevention efforts directed at reducing the number of sexual assaults.".

(b) AUTHORIZATION OF APPROPRIATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (11), as added by section 111 of this Act, the following:

"(12) There are authorized to be appropriated to carry out the purposes of part R, $60,000,000 for fiscal year 1994, $75,000,000 for fiscal year 1995, and $100,000,000 for fiscal year 1996.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 111 of this Act, is amended by striking "O, and Q" and inserting "O, Q, and R"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 111 of this Act, is amended by striking "O, or Q" and inserting "O, Q, or R".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 111, is amended by striking the matter relating to part R and inserting the following:

"PART R—RAPE PREVENTION PROGRAMS

"Sec. 1801. Grant authorization.
"Sec. 1802. Applications.
"Sec. 1803. Reports.
"Sec. 1804. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

**CHAPTER 2—OFFENDER TRAINING AND INFORMATION PROGRAMS**

**SEC. 126. NATIONAL INSTITUTE OF JUSTICE TRAINING PROGRAMS.**

(a) IN GENERAL.—The National Institute of Justice, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officer and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Director of the National Institute of Justice shall attempt, to the extent practicable, to make training programs developed under subsection (a) available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1994 and 1995 to carry out the provisions of this section.

**SEC. 127. INFORMATION PROGRAMS.**

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18 of the United States Code or for the commission of a similar offense, including halfway houses and psychiatric institutions.

**Subtitle C—Victim Compensation**

**SEC. 131. VICTIM COMPENSATION.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2246. Mandatory restitution for sex offenses**

"(a) IN GENERAL.—Notwithstanding section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITIONS.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1) of this section, the United States Attorney (or delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"2246. Mandatory restitution for sex offenses.".

**Subtitle D—Safe Campuses for Women**

**SEC. 141. CAMPUS SEXUAL ASSAULT STUDY.**

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of noncampus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits;

(6) an assessment of the policies and practices of educational institutions that are most effective in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Committees on Education and Labor and the Judiciary of the House of Representatives and the Committees on Labor and Human Resources and the Judiciary of the Senate not later than September 1, 1995.

(d) DEFINITION.—For purposes of this subtitle, "campus sexual assaults" means sexual assaults committed against or by students or employees of institutions of postsecondary education and occurring at such institutions or during activities connected with such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

**TITLE II—SAFE HOMES FOR WOMEN**

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Safe Homes for Women Act".

**Subtitle A—Interstate Enforcement**

**SEC. 211. INTERSTATE ENFORCEMENT.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

**"CHAPTER 110A—DOMESTIC VIOLENCE**

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Violation of protection order.
"Sec. 2263. Pretrial release of defendant.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions for chapter.

**"§ 2261. Interstate domestic violence**

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to contact that person's spouse or intimate partner, and in the course of that contact intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

**"§ 2262. Violation of protection order**

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(1)(A) violates a protection order, any portion of which involves protection against credible threats of violence, repeated harassment, or bodily injury, to the person or persons for whom the protection order was issued, and—

"(B) violates that portion of such protection order; or

"(2) would violate paragraph (1) of this subsection if the conduct occurred in the jurisdiction in which such order was issued;

and does engage in such conduct shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

**"§ 2263. Pretrial release of defendant**

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

**"§ 2264. Restitution**

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITION.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be setoff against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of that affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION OR TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days before sentencing as provided in paragraph (1) of this subsection, the United States Attorney (or such Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victims's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

**"§ 2265. Full faith and credit given to protection orders**

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

**"§ 2266. Definitions for chapter**

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, a person who cohabits or has cohabited with the abuser as a spouse, and any other person similarly situated to a spouse; and

"(B) any other person, other than a minor child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse, former spouse, or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States;

"(4) the term 'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member;

"(5) the term 'bodily harm' means any act, except one done in self-defense, that results in physical injury or sexual abuse; and

"(6) the term 'Indian country' has the meaning given to such term by section 1151 of this title.".

(b) TABLE OF CHAPTERS.—The table of chapters at the beginning part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

**"110A. Violence against spouses ..... 2261.".**

**Subtitle B—Arrest in Domestic Violence Cases**

**SEC. 221. ENCOURAGING ARREST POLICIES.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 121, is further amended by—

(1) redesignating part S as part T;

(2) redesignating section 1901 as section 2001; and

(3) adding after part R the following new part:

**"PART S—GRANTS TO ENCOURAGE ARREST POLICIES**

**"SEC. 1901. ARREST POLICIES.**

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to encourage States, Indian tribes, and units of local government to treat domestic violence as a serious violation of criminal law. The Director of the Bureau of Justice Assistance may make grants to eligible States, Indian tribes, or units of local government for the following:

"(1) To implement mandatory arrest or proarrest programs, including mandatory arrest programs for protective order violations.

"(2) To develop policies, and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To strengthen legal advocacy service programs for victims of domestic violence.

"(5) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—Eligible grantees are States, Indian tribes, or units of local government that—

"(1) certify that their laws or official policies—

"(A)(i) encourage or mandate arrest of domestic violence offenders based on probable cause that violence has been committed; or

"(ii) certify that all their law enforcement personnel have received domestic violence training conducted by a State Domestic Violence Coalition as defined in section 10410(b) of title 42, United States Code; and

"(B) mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices, and training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, and practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed finding of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;

"(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; and

"(5) certify that their laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, or social companions of or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

**"SEC. 1902. APPLICATIONS.**

"(a) APPLICATION.—An eligible grantee shall submit an application to the Director that shall—

"(1) describe plans to implement policies described in subsection (b);

"(2) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(3) include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) PRIORITY.—In awarding grants under this part, the Director shall give priority to an applicant that—

"(1) does not currently provide for centralized handling of cases involving domestic violence by policy, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

**"SEC. 1903. REPORTS.**

"Each grantee receiving funds under this part shall submit a report to the Director evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Director may prescribe.

**"SEC. 1904. DEFINITIONS.**

"For purposes of this part—

"(1) the term 'domestic violence' means a crime of violence against a victim committed by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who cohabits with or has cohabited with the victim as a spouse, or any other individual similarly situated to a spouse, or any other person who is protected under the domestic or family violence laws of the eligible State, Indian tribe, municipality, or local government entity.

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence including temporary and final orders issued by civil and criminal courts (other than support or child custody provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (12), as added by section 121 of this Act, the following:

"(13) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the purposes of part S.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 121 of this Act, is amended by striking "O, Q, and R" and inserting "O, Q, R, and S"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 121 of this Act, is amended by striking "O, Q, or R" and inserting "O, Q, R, or S".

(d) EFFECTIVE DATE.—The eligibility requirements provided in this section shall take effect 1 year after the date of enactment of this subtitle.

(e) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 121, is further amended by striking the matter relating to part S and inserting the following:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 1901. Arrest policies.
"Sec. 1902. Applications.
"Sec. 1903. Reports.
"Sec. 1904. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2001. Continuation of rules, authorities, and proceedings.".

**Subtitle C—Domestic Violence**

**SEC. 231. SHORT TITLE.**

This subtitle may be cited as the "Domestic Violence Firearm Prevention Act".

**SEC. 232. FINDINGS.**

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

**SEC. 233. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.**

(a) INTIMATE PARTNER DEFINED.—Section 921(a) of title 18, United States Code, is amended by inserting at the end the following:

"(29) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury, except that this paragraph shall only apply to a court order that (A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate, and (B) includes a finding that such person represents a credible threat to the physical safety of such intimate partner.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual or constructive notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury; and

"(C) includes a finding that such person represents a credible threat to the physical safety of such intimate partner,".

(d) STORAGE OF FIREARMS.—Section 926(a) of such title is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of such title is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

**Subtitle D—Protection for Immigrant Women**

**SEC. 241. ALIEN SPOUSE PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.**

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clause:

"(iii) An alien who is the spouse of a citizen of the United States, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse, or

"(II) the alien is residing in the United States with the alien's spouse, the alien has been married to and residing with the spouse for a period of not less than 3 years, and the alien's spouse has failed to file a petition under clause (i) on behalf of the alien."; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that the conditions described in subclause (I) or (II) of subparagraph (A)(iii) are met with respect to the alien.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of such Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A), by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,", and

(B) in subparagraph (B), by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of such Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii)(I) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1994.

**SEC. 242. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.**

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence submitted in support of the application (whether or not the evidence is supported by an evaluation of a licensed mental health professional). The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications made before, on, or after such date.

**SEC. 243. SUSPENSION OF DEPORTATION.**

Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) at the end of paragraph (1) by striking "or";

(2) at the end of paragraph (2) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); is physically present in the United States; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident; and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

**TITLE III—MISCELLANEOUS PROVISIONS**

**Subtitle A—Reports**

**SEC. 301. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.**

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

**SEC. 302. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.**

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

**Subtitle B—Justice Department Task Force on Violence Against Women**

**SEC. 311. ESTABLISHMENT.**

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

**SEC. 312. GENERAL PURPOSES OF TASK FORCE.**

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall review Federal, State, and local strategies for preventing and punishing violent crimes against women, including the enhancement and protection of the rights of the victims of such crimes, and make recommendations to improve the response to such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluating the adequacy of, and making recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of State and Federal rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and postconviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending an effective Federal response to the problem;

(10) evaluating the adequacy of, and making recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(11) evaluating the treatment of women as victims of violent crime in the State and Federal criminal justice system, and making recommendations to improve such treatment; and

(12) assessing the problem of sexual exploitation of women and youths through prostitution and in the production of pornography, and recommending effective means of response to the problem.

**SEC. 313. MEMBERSHIP.**

(a) CHAIR; NUMBER AND APPOINTMENT.—The Task Force shall be chaired by the Attorney General (or designee). Not later than 60 days after the date of the enactment of this Act, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Housing and Urban Development, the Attorney General shall select up to 14 other members to serve on the Task Force.

(b) PARTICIPATION.—The Attorney General (or designee) shall select, without regard to political affiliation, members who are specially qualified to serve on the Task Force based on their involvement in efforts to combat violence against women, assistance or service to victims of such violence, or other pertinent experience or expertise. The Attorney General shall ensure that the Task Force includes a broad base of participation by including members with backgrounds in such areas as law enforcement, victim services and advocacy, legal defense and prosecution, judicial administration, medical services, and counseling.

(c) VACANCIES.—The Attorney General may fill any vacancy that occurs on the Task Force.

**SEC. 314. TASK FORCE OPERATIONS.**

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General (or designee), but shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General (or designee), but shall meet at least 6 times.

(b) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(c) PER DIEM.—Except as provided in subsection (b), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

**SEC. 315. REPORTS.**

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 313, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

**SEC. 316. EXECUTIVE DIRECTOR AND STAFF.**

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Attorney General (or designee), with the approval of the Task Force.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

**SEC. 317. POWERS OF TASK FORCE.**

(a) HEARINGS.—For the purposes of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths for testimony before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Attorney General (or designee).

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

**SEC. 318. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

**SEC. 319. TERMINATION.**

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 315.

**Subtitle C—STD Testing**

**SEC. 321. PAYMENT OF COST OF STD TESTING FOR VICTIMS IN SEX OFFENSE CASES.**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for sexually transmitted diseases, including, but not limited to gonorrhea, herpes, chlamydia, syphilis, and HIV, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault.".

**Subtitle D—Grant Programs**

**SEC. 331. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.**

(a) FINDINGS.—Congress finds that—

(1) 4,000,000 women are battered by their partners each year, of which 4,000 die as a result of such abuse;

(2) victims of domestic violence need access to resources which will refer such victims and their children to safe homes and shelters; and

(3) there is a need for a national domestic violence hotline to provide information and assistance to victims of domestic violence because a privately funded national domestic violence hotline which handled more than 65,000 crisis calls annually no longer exists.

(b) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, shall provide a grant to a nonprofit private organization to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. A grant provided under this subsection may extend over a period of not more than 3 fiscal years and the provision of payments under such grant shall be subject to annual approval by the Attorney General and subject to the availability of appropriations for the fiscal year involved to make the payments.

(c) APPLICATION.—

(1) IN GENERAL.—The Attorney General may not provide a grant under subsection (b) unless an application that meets the requirements of paragraph (2) has been approved by the Attorney General.

(2) REQUIREMENTS.—An application meets the requirements of this paragraph if the application—

(A) contains such agreements, assurances, and information, and is in such form and submitted in such manner as the Attorney General shall prescribe through notice in the Federal Register;

(B) demonstrates that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including support from advocacy groups, particularly State coalitions and recognized national domestic violence groups;

(C) demonstrates that the applicant has a commitment to diversity, including the hiring of and provision of services to ethnic, racial, cultural, and non-English speaking minorities, in addition to older individuals and individuals with disabilities;

(D) demonstrates that the applicant has the ability to integrate the hotline into existing services provided by the applicant to victims of domestic violence;

(E) includes a complete description of the applicant's plan for the establishment and operation of the hotline, including a description of—

(i) the hiring criteria and training program for hotline personnel;

(ii) the methods for the creation, maintenance, and updating of a resource database for the hotline;

(iii) a plan for providing service on a 24-hour-a-day basis to non-English speaking callers, including hotline personnel who speak Spanish;

(iv) a plan for access to the hotline by individuals with hearing impairments; and

(v) a plan for publicizing the availability of the hotline; and

(F) contains such other information as the Attorney General may require.

(d) SELECTION.—The Attorney General shall select a nonprofit private organization to receive a grant under subsection (b) which has been in existence for at least 5 years from the date of submission of the application by the organization.

(e) USES.—A grant made under subsection (b) shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a nonprofit private organization shall—

(1) contract with a carrier for the use of a toll-free telephone line;

(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

(3) establish, maintain, and update a database of information relating to services for victims of domestic violence, including information on the availability of shelters that serve battered women; and

(4) publicize the hotline to potential users throughout the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1994 through 1996.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.

**SEC. 332. GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 221 of this Act, is amended by—

(1) redesignating part T as part U;

(2) redesignating section 2001 as section 2101; and

(3) adding after part S the following new part:

**"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE**

**"SEC. 2001. GRANT AUTHORITY.**

"The Director shall provide grants to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

**"SEC. 2002. APPLICATIONS.**

"(a) IN GENERAL.—An organization that desires to receive a grant under this section shall submit to the Director an application, in such form and in such manner as the Director may reasonably require that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Director may require.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, such application shall include—

"(1) an assurance that the applicant is a nonprofit private organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) an assurance that such nonprofit organization includes representation from pertinent sectors of the local community, including—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions; and

"(G) business and civic leaders.

**"SEC. 2003. AWARD OF GRANTS.**

"(a) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(b) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Director; and

"(2) availability of appropriations.

"(c) GEOGRAPHICAL DISPERSION.—The Director shall award grants under this section to organizations in communities geographically dispersed throughout the country.

**"SEC. 2004. USES OF FUNDS.**

"(a) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(b) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(1) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(2) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(3) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after paragraph (13), as added by section 221 of this Act, the following:

"(14) There are authorized to be appropriated to carry out part T $20,000,000 for fiscal year 1994 and such sums as are necessary for each of the fiscal years 1995, 1996, and 1997, to remain available until expended.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 221 of this Act, is amended by striking "O, Q, R, and S" and inserting "O, Q, R, S, and T"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 221 of this Act, is amended by striking "O, Q, R, or S" and inserting "O, Q, R, S, or T".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 221 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

"Sec. 2001. Grant authority.
"Sec. 2002. Applications.
"Sec. 2003. Award of grants.
"Sec. 2004. Uses of funds.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

## TITLE IV—EQUAL JUSTICE FOR WOMEN IN THE COURTS

### Subtitle A—Education and Training for Judge and Court Personnel in State Courts

**SEC. 401. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to award grants for the purpose of developing, testing presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by gender.

**SEC. 402. TRAINING PROVIDED BY GRANTS.**

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims or rape, sexual assault, domestic violence, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the negative implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant and should not be held in contempt;

(18) the need for orders of protection, and the negative implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

**SEC. 403. COOPERATION IN DEVELOPING PROGRAMS.**

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

**SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1994, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

**Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts**

**SEC. 411. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.**

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation, parole, and supervised release;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 402 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial Branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

**SEC. 412. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $600,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 411(a), to be available until expended through fiscal year 1996;

(2) $100,000 to the Federal Judicial Center to carry out section 411(c) and any activities designated by the Judicial Conference under section 411(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 411(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $100,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

**Subtitle C—Evidentiary Rules**

**SEC. 421. EXPERT TESTIMONY OF DOMESTIC VIOLENCE.**

(a) FINDINGS.—The Congress finds that—

(1) State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

(3) the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they terminate or attempt to terminate domestic relationships with their abuser;

(4) myths, misconceptions, and victim-blaming attitudes are often held not only by the average lay person but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

(5) specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

(6) although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

(7) a woman is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the executive branch, working through the State Justice Institute, should examine programs which would allow the States to consider—

(1) that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) that a witness be qualified to testify as an expert witness based upon her or his

knowledge, skill, experience, training, or education, and be permitted to testify in the form of an opinion or otherwise; and

(3) that expert testimony about a domestic relationship be admissible to include testimony of relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Violence Against Women Act represents landmark legislation on the rights of women. It is clearly one of the most consequential pieces of legislation aiding women to come to this floor since the adoption of what became the 19th amendment to the Constitution—providing women the right to vote.

This bill is a comprehensive, multifaceted, and long-overdue response to crimes of violence and abuse suffered by women across the country. It authorizes innovative programs to target violence against women in our streets, our campuses and our homes. It addresses the full range of the criminal justice system—education, prevention, treatment, enforcement, and punishment.

I want to commend the chairman of the Crime Subcommittee, Mr. SCHUMER, for his leadership on this issue, as well as the other subcommittee chairman and ranking members who contributed to the legislative product before us today.

I also want to congratulate the gentlewoman from Colorado [Mrs. SCHROEDER] for her unfailing devotion to the core principles underlying this legislation. She has worked diligently for many years to bring it forward.

I urge approval of the Violence Against Women Act.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Texas for yielding to me.

Mr. Speaker, I understand that there have been some modifications made to this bill between the time it was reported from committee and today, and I am wondering if the chairman would explain those modifications that have been made to the legislation.

Mr. BROOKS. The managers' amendment is at the desk. And may I give the gentleman the details in just a moment?

Mr. SENSENBRENNER. Of course.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the legislation and yield myself 2 minutes.

Mr. Speaker, this is important legislation, and I am glad the chairman has finally decided to bring this legislation up this afternoon.

Mr. Speaker, three of our women will be victims of at least one violent crime during their lifetime, according to Justice Department statistics. Every hour, 10 women are raped, 240 women are beaten by their husbands or boyfriends.

During the last 10 years, the rape rate has risen far more than 4 times as fast as the total crime rate.

The Surgeon General reports that domestic battery has become the single largest cause of bodily injury to American women. Yet violence against women is grossly underreported, whether on the campus or in the home. Some studies conclude that only 34 percent of stranger rapes and 13 percent of acquaintance rapes are reported to authorities. No more than half of the domestic battery victims go to the police. More than half of the women homicide victims are killed by their husbands, ex-husbands, or boyfriends. More than half of the rape victims experience physical injuries other than the rape itself. The injury is contagious: Rape survivors are also 9 times more likely than other women to attempt suicide.

This legislation establishes the Federal program to attempt to deal with this issue. I am saddened to say, however, that this is another unfunded authorization bill. The Congress has not appropriated any money to back up the promises that are contained in this legislation. But I am hopeful if it passes, this legislation will jump-start the Appropriations Committee in doing the right thing to fund the programs that are authorized under this bill.

Let me also say that I am a bit disappointed that this legislation is short of enforcement, but perhaps we can revisit that issue another day, since amendments are not permitted under the procedure by which we are dealing with this legislation today.

Mr. Speaker, I reserve the balance of my time.

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Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank my friend, the gentleman from Texas [Mr. BROOKS], the chairman of the committee, for allowing me to speak on this matter.

Mr. Speaker, I rise today in strong support for the Violence Against Women Act. The legislation would provide incentives for States to toughen penalties against offenders of crimes against women, and increase the protection for victims of domestic violence.

Women are increasingly becoming the victims of violent crime like assault and rape. They are losing their freedom to live their lives fully because of fear of being attacked. A recent study found that due to the fear of rape, women are eight times less likely than men to walk alone in their neighborhood. Most women won't use public transportation after dark out of fear of being assaulted. Their fears are well-substantiated. In 1990, there were more than 680,000 rapes. The number of sexual assaults increased four times as fast as the total crime rate. All too often, women are restricted from leading normal lives because of fear of violence.

The Violence Against Women Act is a bold new act that will make the streets safer for women. It creates programs to combat violent street crimes, develops education and rape awareness programs, and establishes training programs for individuals working with sexual offenders. Women feel unsafe in their own community, and up until this point we have failed to address these problems. The Violence Against Women Act will allay some of these fears.

While many women live in fear of walking alone after dark, even more women are victims of domestic violence. More than twice as many women are killed by their husbands or their boyfriends than by strangers. The majority of all rapes are committed by friends, family, or acquaintances. The number of domestic violence crimes is increasing in epidemic proportions. A recent report by the American Medical Association found that 3 to 4 million women are battered by their husbands or boyfriends each year, and 25 percent of all women are likely to be victims of domestic violence at some point in their lives.

Domestic violence crosses all cultural and socioeconomic levels. It occurs just as often in upper class families as it does among poor. Most of us don't like to believe that people we know are abused, but very often the victims are our families, our friends, and our neighbors. Last March, a 21-year-old neighbor of mine from south Boston was fatally stabbed, and her apartment was set afire by her estranged husband. Despite the fact that she had contacted the authorities and obtained a restraining order, the law was unable to protect her. She is survived by her parents and infant. The young woman, a college senior, was 1 of 24 women who have been killed by domestic violence in Massachusetts so far this year.

These statistics are particularly disturbing to me. The simple fact of the matter is violent crimes against women are increasing, and immediate action needs to be taken to reverse this

trend. Women need to be able to turn to counselors, policemen, and judges who are trained to recognize domestic violence and deal with it appropriately. Domestic violence is no longer an issue that we, in society, can ignore or simply dismiss as a lover's quarrel. Domestic violence is a serious matter. One that needs a real solution.

I strongly support the Violence Against Women Act. Our streets should be safe enough for a women to walk home alone, and our homes should be equally safe so women do not live in fear of going home.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I want to thank the ranking member of the Judiciary Committee for yielding this time to me. I want to thank the chairman of the Judiciary Committee and the members of the committee for having this bill out on the floor of the House. It certainly has incredible support, and justifiably so.

Mr. Speaker, whether walking alone down city streets late at night, driving to work in quiet suburban neighborhoods, or even home alone with their loved ones, for women and girls in America, violence is an everyday fact of life.

In this country, every 5 minutes a woman is raped, every 15 seconds a woman is beaten by her husband or companion, and every year 4,000 women are killed by their abusers.

Street and domestic violence costs our Nation 5.3 billion health care dollars annually. More than 30 percent of women in emergency rooms are there because of domestic violence, and more than 60 percent of the women in mental health wards are there because of ongoing abuse.

Mr. Speaker, today, the House will consider the Violence Against Women Act (H.R. 1133), a bill that I have sponsored that is very important to me and to so many others who have worked long and hard to see this day finally come.

H.R. 1133 will:

Require all States to enforce orders of protection regardless of State of origin and to encourage mandatory arrest policies;

Provide grants for more effective law enforcement and prosecution strategies and for rape prevention programs and antiviolence curriculums for school-aged children;

Grant permission for battered immigrant women, the spouses of U.S. citizens or legal residents, to self-petition for legal status for themselves and their children; and

Provide training for judges and other court personnel about rape, sexual assault, and domestic violence.

I am pleased that the Judiciary Committee has added two of my domestic violence bills to H.R. 1133.

The National Domestic Violence Hotline Act (H.R. 522) will provide funding to reconnect the nationwide, toll-free, multilingual hotline for battered women and their families. This hotline will provide a lifeline to thousands of battered women helping them find emergency services, housing, counseling, and legal assistance. The domestic violence hotline is frontline prevention.

I am also pleased that H.R. 1133 also includes my resolution, House Concurrent Resolution 20, urging State courts to allow battered women to present evidence of past abuse in criminal trials and to allow expert testimony about the battered women's syndrome.

H.R. 1133 will have a real and immediate impact on the lives of every woman and girl in this country, regardless of their race, economic circumstances, education, or occupation.

For too long we have tolerated increasing levels of violence against women and girls. For too long we have tolerated the twin evils of violence and sexism in our society. Now, we say we have had enough.

It is time, Mr. Speaker, to pass the Violence Against Women Act.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the chairman for yielding this time to me. I certainly want to thank the chairman of the committee and the gentlewoman from Colorado [Mrs. SCHROEDER] for their very strong leadership on this issue.

Mr. Speaker, I rise today in strong support of the Violence Against Women Act of 1993. The passage of this legislation is long overdue. I would like to share with you a letter that was sent to me by a very courageous woman in western Massachusetts.

This is a disturbing and heart-rending account of 5 years of physical and psychological abuse that she has suffered at the hand of her husband. Among many other things, her husband shot a gun at her, shot arrows at her, set her hair on fire, and hit her with many objects including a hammer. When she had a job he called her at work and harassed her. He would not allow her to get an education because he believed she would cheat on him or run away when she went to classes. She says he caused her to have three miscarriages.

This woman has received 13 restraining orders and moved out of the State several times. But he always found her. She came close to prosecuting once. But between going to court and the time for his trial, he came to her house, forced her into his car and repeatedly hit her in the head until she was unconscious. This was one of several times she tried to send him to jail but was scared into backing off.

She continued to live in what only can be described as a nightmare because she was afraid of the harm her husband might bring to her daughter if she were to reach out for help. She finally prosecuted in May of this year when he took her daughter without her permission. When the police tried to stop his car, he took the police on a high-speed chase. This was the first time he actually endangered her daughter and she says she finally snapped and took him to court.

Without the help and support of the victim witness advocate the court provided her, she never would have made it through the judicial system. Her husband is finally in jail but could be out in 2 years on good behavior.

She is one of millions of women suffering abuse and pushed to inhuman limits before crying out for help. Some women never cry out. The Violence Against Women Act will not solve all of the unthinkable problems these women face, but it is an admirable beginning.

Mr. Speaker, I insert the following letter:

TURNERS FALLS, MA,
*July 29, 1993.*

Governor WILLIAM WELD,
*Boston, MA.*

In conjunction with my previous two letters I am writing in an effort to prove to you that your existing laws concerning battered women are looked upon as a joke and severely insufficient.

I, as an individual, feel the strong need to communicate with you my five year struggle as a battered woman and to plea for your support. I realize recently you have made an important step to freeing woman from an abusive situation, but this letter will hopefully suggest realization to the fact that we are not free and something more needs to be done.

For the past five years I can prove that my husband has physically, emotionally, mentally and financially abused me and stripped me of everything including my self confidence, my home, my friends, my family and the right to lead a normal life.

Five years ago until the current time he has:

1. Played Russian Roulette with bullets with my name on it.
2. Shot arrows at me.
3. Told me I was dressed like a whore and said "the devil likes whores" and shot at me.
4. He locked me outside the house in the middle of the winter with no clothes on.
5. On Main Street in Greenfield, MA., he jumped on my car and smashed all the windows.
6. In front of 15–20 people and in front of the Greenfield Court House, he jumped on my car.
7. He has set my hair on fire.
8. He has forced me to put my hand on a stove burner that was on high.
9. He has hit my head so hard he knocked me out for hours.
10. He broke glass over parts of my body.
11. Many, many times he has threatened to kill me and my family.
12. In or out of jail, he calls me repeatedly—20–30 times a day. I'll pick up the telephone and it is him and I then would hang up. With speed dialing he'd call back immediately, again and again. Most of the time I had to keep the phone off the hook for long periods of time.
13. Two days before my wedding day I was held at knife point until I said "I would marry him."
14. I can not hold a job for he harasses me at work. Therefore I am forced to stay on welfare.
15. I can not get an education for he feels that I would cheat on him or run away, therefore I can not complete any schooling I start.

16. I was not allowed to go places. For example, I could not go grocery shopping alone, because there were male baggers. Never mind having fun with family or friends. It's this obsession that is going to get me killed.

17. My daughter (which is not his) is staying back in kindergarten, because she missed so much school. If Peter did not want me to take her to school, I could not.

18. He has killed three children that I was pregnant with.

19. He has forced me to eat when I did not want to, saying "no one will look at you if you are fat." I am heavy now.

20. He has hit me with hammers, pans, glass and other objects. He has threatened me with guns, knives, and other instruments.

These first twenty explanations are only to name a few in a years time. These were witnessed incidents, never mind all those that went on behind closed doors.

His abuse does not stop with me:

1. He brags how many times he has hit police officers.

2. He brags how it took 6 court officers to put handcuffs on him in the courtroom.

3. He has been jailed six times with out any testimony on my part.

4. He has broken probation so many times, but yet they will not revoke his probation.

5. He has set a person's house on fire.

6. He tells my mother that he is going to blow her house up.

7. He has thrown Molotov cocktails at peoples' cars.

8. He has stolen money from people.

9. He threatens other people into not pressing charges. Those who do, get beaten up or tires slashed etc.

10. He has stolen from the state lottery.

He mocks the whole justice system by getting a slap on the wrist or 30 days in jail, which he says "I can do standing on my head." He runs peoples lives by telling someone what to do, or buys them off and/or just plain making them suffer.

I freely admit that I have not always pressed charges or not testified, but I had no choice. For instance:

Mr. Moon hit me with a glass bottle after I told him I went to the doctors after he told me not to. I laid in bed with glass in my arm, a fractured wrist and blood dripping all over. I could not sleep because I was afraid of him killing me and I also tried to figure out how I could get away. So, the next day while he took a shower, I grabbed my daughter and ran to a shelter. I had no money, no clothes, no nothing. There, I got cleaned up, went to a hospital and then to court. Well, from the time I left until the time of his trial he found me. He came by and forced me into the car and repeatedly hit me in the head, telling me "I am knocking sense into you." He did this until he knocked me out. Then when I awoke he had packed and told me we were leaving again. So off we went against my will to New Hampshire, where we slept in the car until I could get an apartment. When his trial date came, they asked me to testify to a charge that he would only get thirty days for. As the Judge asked me if I was freely refusing to testify, I was thinking, is this man going to help me get away before he gets out or will he wait until after Peter gets out to put me as a number in a morgue and say to my family, "I'm sorry." What was I to do? Was I to testify and become a statistic of being killed due to an abusive situation or was it just better to refuse to testify and stay alive. This was the beginning of five years to come of the same thing again and again.

All this time I stayed to protect my family, friends and other people because, you see, he is a good little boy when I do as he wants me to and I quietly take his constant abuse.

Through these years I have gotten 13 restraining orders, I have changed my name and I have moved out of state several times. I have tried to give my daughter the best life possible, but with him always finding us it is hard. We have had to leave friends, family, stability behind so many times. I have no future of education, a job, or a decent life. Even when he is put into jail for 30 days. I live looking behind me in fear and then he finds us and it starts again, worse than before. Making friends or keeping family is so difficult. It is embarrassing to tell the doctor you didn't forget the appointment, that you were locked in a room, so you lie and say you forgot. The courts begin not to take you serious, because you don't testify because just before you go in, he has a family member threaten you. You have to lie constantly to your family, so they don't know what is happening, because your abuser tells you that he will hurt them if they know. It is so hard for my daughter, when other children say "My mom said that your Dad was in court again." (Peter Moon is not my daughter's father or her Daddy)

I have tried to stay within the limits of the law and help myself, but he gets to me one way or the other. It's not fair, he is treated with more respect and more rights than I have.

He gets to walk free for 5 years, while I was in prison. He goes to appointments or his job without delay, while I have to do what he says and when he says to do it. He gets a fair hearing at his trial, while he threatens me right in the court room and gets off while I go home and get beat up. I even thought of buying a gun and if he broke into my home and hit me I could shoot him in self defense. Most people would think that I had done them a favor, but do you realize the law would put me in prison for attempted murder. Are you aware that sometimes this is the only way out? But yet for 5 years Peter Moon has slowly and painfully killed me. I don't even live anymore, I only exist. There is no doubt in my mind or any one else, that soon he will do that one last act of murder and I will be dead, and perhaps finally free. My daughter is the only thing that I have left. I try to live for her and only for her.

Peter feels he will always get away with it and he laughs and up until now he has been let off time and time again. Even when he goes to jail, they let him out, because he is so good. They never ever revoke his probation. Perhaps you will realize that the laws need to be changed more. I know that the big problem is space in the jails, but is this a valid reason?

This brings me to the present time. On April 8, 1993 Peter Moon hit me with a hammer. With no faith in the law, I called the police. With the new laws, they came and arrested him, which they have never done before, (in the past they just escorted him away and then he would just come back). He went to jail and got bailed. As usual I got a restraining order and he came back. Well, I put up with it as usual, because he threatened to take my daughter. On Mother's Day, May 9, 1993 he took my daughter over to my father's, against my consent. On the way, he got stopped by the police. He would not stop. He took the police on a high speed chase with her in the car. He got arrested when he did stop and went back to jail. That was it! Something snapped, as it was the first time that he had directly endangered my daughter. No one and I mean no one will ever do that to her. So, I went to court and there I found my saving angel. She was a victim witness advocate, she did not just half listen as all the others had, she really listened and heard me. I told her every thing from start to finish. No matter what I said or how many phone calls I made to her or how many tears I shed and had to stop talking, she wanted to know it all. This lady went way beyond her job, giving me courage and making me believe in myself as well as the court system. She sat and explained to me what I could do, how to do it and if I did not want to because I was scared, she still would stand by me. With that and the police taking action I did every thing that I could do to help them.

The first thing I did was violate his restraining order, and agree to do what ever was humanly possible to help the courts. Then there was a detention hearing to keep him in jail without bail, because of his threats to me and others. It was at this hearing that for the first time in five years, I got to say what I wanted. It felt so good. I had 23 minutes of happiness, because they made me feel that I mattered to them.

Thankfully, the judge held him on no bail. From this time until the day of his trial, he was in jail, but this did not matter, for the harassment continued (calls from jail—threats from his friends, etc.). When the trial came he pleaded guilty or submitted to: Assault and battery; assault and battery with a dangerous weapon; failure to stop for police; driving without a license; speeding; reckless driving; and possession of a firearm (2 guns were in the car and he does not have a F.I.D. card).

Not to mention, which he was never charged with: Kidnapping; running people off the road; all sorts of traffic violations—like not stopping for stop signs; failure to use directional; assault and battery on a police officer; and resisting arrest.

Also, from 4-93 to 6-93 he has not been charged with over 200 counts of violating a restraining order. He calls from jail 15-20 times a day. And after all of this he has not been charged with stalking, which I think applies.

The day of his trial they did not make me see him, and someone was always with me. He even threatened the District Attorney's Assistant in public. Then his three lawyers were kind enough to ask me to move, because they were bringing him out to go to the restroom and he had made it very clear that he would go for me, if given the chance.

To all these things he got 9 years concurrent to only serve 4 years, which with good behavior he could be out in 2 years. Everyone knows that he would be good in jail, so that he could get out and claim his property—me.

After the police, Victim Witness Advocate and the D.A. did all they could I went home. I need to mention that through these 5 years he has been ordered to attend a batterers' group and also to go to counseling. This has not helped one bit. He only goes when he first gets let out of jail to impress his Probation Officer, but he never goes long.

I went home with a feeling that is/was indescribable. After 5 years of abuse this man does a 2 year sentence at a campground type jail. After pouring my heart out, weeks of worry and fear and putting everything on the line, he only gets 2 years. I am happy that people are taking notice and finally realizing and understanding. The police, the judge, the witnesses, the Victim Witness Advocate and the Asst. District Attorney and others did their best—all for what? Two years—Peter

Moon is now appealing the decision, after he pleaded guilty. The end of my abuse—No, only the beginning again.

All this to find out his detention without bail only lasts 60 days, which means he can bail himself after 8-30-93 until his hearing 9-22-93.

Does anyone realize what this man can do in 30 days, walking free? He is coming after me to kill me. It's been a long time and I finally have courage to stand up for myself. Now that I know people have done something, I will do everything that I can to help. I have proven myself as such, the laws are behind me for once, but what's going to happen on 8-30-93 if they let him out on bail. In the past I have had thoughts (but not acted on them) in which I welcomed death for peace finally, but now I do not want to die. I want one chance. I want to start a new life. I now realize that I matter and that I am not his possession. I know now, that I am not just a case number, but a victim, with rights. I hope people come to realize that I am not a story on paper, but a person that needs a chance to live and not only exist. I know that this will follow me, because it happened to me, but it needs to be put to rest. The past is just that, "the past," putting it there is the hardest obstacle I have to face.

I want to do all I can and that is the reason for this letter. We abused women need governmental support. I am going to put an article in the paper, I hope to go on National T.V. to tell my story and use the media to help us all. Hopefully this will gain support from all sectors and give other women hope and courage to get away. I hope that the government and its laws will be for us and do their part to get stiffer laws enacted to take care of these situations of abuse, fear, and unjustice.

I hope you or someone can keep Peter Moon in jail long enough for me to relocate again, get my daughter in school, change my name again and get a normal life going. This is not going to happen if he gets bailed 8-30-93. To go to a shelter would keep my daughter out of school again. I long for a normal life for her and thought I could do it when I knew/or thought I knew that Peter would be in jail for 2 years. Now he has appealed and will be out. This alone is what I want and need. He has come close to physically and emotionally destroying me. Financially, will never be replaced. He has sold my furniture to buy himself things. My perfect credit will never be restored. He wrote bad checks from my account. All the money I had I used to go from place to place.

My family and friends have given me everything they possibly could that I will never be able to pay back. I have lost my furniture, clothes that he has burned, knick-knacks that meant so much to me smashed. No one can replace my pride, my dignity, my self worth. Please help me be able to have a brighter future for me and my precious daughter.

On 8-30-93 perhaps this letter will mean the difference between more abuse, death, or keep him in jail where he cannot get to me. I want the chance to get an education and a job, so that I can stand on my own two feet. Can you help me/will you help me? The children of these abusive situations need to know a better life, so that the cycle will stop.

I hope to be forming a day—12-31-93, that all people I reach with my efforts will take a stand and make a statement, in support of the laws being changed even more than they are now. These statements can be sent to "The New England Learning for Woman in Transition" along with one penny. These people will throw these pennies in a well, as a wish for a new beginning 31st, to recognize a new life in a New Year.

As you can see I need your help. All these facts can be backed with proof. I hope that you see how important it is to me and my daughter that I get support from the government. I appreciate the time and attention you have given this letter and hope that you can communicate with me about the issues. Anything that you can do to help me gain peace will be greatly appreciated by me, my family and especially to a five-year-old little girl who has no chance unless you can help. She does not deserve this, as she has done nothing wrong, but be born and even that was not her voice.

This case is pending in the Greenfield Court System—Greenfield, MA.

MARQUIS A. LOUD.

Mr. BROOKS. Mr. Speaker, I yield myself 1 minute to reply to my distinguished friend, the gentleman from Wisconsin, about the changes that have been made in the bill.

The only substantive change was to straighten out the new Federal offense created by the violation of the protection order in title 2 of the bill. The change reflects the discussion during the committee hearings and the markup session. The sponsors of the legislation, including its prime sponsor, the gentlewoman from Colorado [Mrs. SCHROEDER] are agreeable to it, as I understand it and to the technical changes made in title 221 of the bill dealing with the eligibility of grants to encourage arrest policies.

Mr. Speaker, I thank the gentleman for bringing that to my attention. I am glad we could make it a part of the RECORD.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, what the gentleman from Texas has said shows one of the things that is wrong with this Congress. The way the Judiciary Committee reported this bill out is that there was a mandatory minimum sentence of 3 months for someone who violated a protective order, crossing State lines.

Somewhere between the time this legislation was reported from the Judiciary Committee and this moment, that mandatory minimum has disappeared and now someone who is convicted of this crime will not have to serve any jail time at all.

Now, this denigrates the committee system, and because the gentleman from Texas who is the committee chairman is bringing this bill up under a procedure that does not allow any amendment, we have to swallow his demand of getting rid of the mandatory minimum penalty for violation of a protection order, or this whole bill goes down.

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Now, whatever happened to majority rule in committees where we discussed this matter and we decided that a mandatory minimum penalty was in order for this type of an offense? That has gone out the window here, and it has gone out the window because somebody does not like mandatory minimums and will not bring the bill up that contains a mandatory minimum even though his own committee voted for a mandatory minimum.

Now I think that where there is a protective order issued there has already been violence. The person who has received the protective order knows what he or she cannot do, and, if they cross a State line to do it, I think 3 months in the slammer is certainly in order, and I am shocked that the gentleman from Texas would weaken the protections of this bill by taking the mandatory minimums out.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself another 30 seconds.

To my distinguished friend from Wisconsin:

Mandatory sentences are often not appropriate, not appropriate at all. Sometimes people should have a week. Sometimes people should have a month. Sometimes people should have 10 years, not just 3 months. The changes that were made strengthen the opportunities of women to be protected because on page 33 we pick up all of the normal punishments for violation of section 2262, which is the activating paragraph—we make them eligible for regular title 18 prosecution, which is for life or any terms of years if the offender murders the victim, or not more than 20 years if the offender causes serious bodily injury.

Mr. Speaker, this gives women considerably more rights than they did have, and it is an equitable and better way to operate. I had thought this had been cleared with the Republicans, that the agreement had been made, or I would not have made the change. I also probably would not have helped pass out the bill if we had not made some adjustments that gives women real rights instead of some 3 months for killing them. I ask, Is that all you want to give them?

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER], the chief sponsor of this bill who has worked long and hard for it.

Mrs. SCHROEDER. Mr. Speaker, I thank our chairman, the gentleman from Texas [Mr. BROOKS], for yielding this time to me, and I want to thank him, and the gentleman from New York [Mr. SCHUMER], and I want to thank the gentleman from Minnesota [Mr. RAMSTAD], the gentlewoman from New York [Ms. MOLINARI] and everyone who worked so hard on this, the gentlewoman from Maryland [Mrs. MORELLA], everybody.

Mr. Speaker, what we did was we took different bills that had come out

that were really very similar about violence against women and put them all together in what we hoped would be noncontroversial so we could finally get this body acting on violence against women.

Mr. Speaker, this whole area, it has been called domestic violence. Somehow our society has pretended it is a much lesser violence. We are really eager to come to the floor to fight violence in the streets. We are really eager to fight violence in the schools, as well we should. But violence in the home we tiptoe around, and we find many creating that violence in the street.

So, Mr. Speaker, this does everything we know how to try and say to localities, You must start taking these crimes much more seriously.

It also deals with the rising toll of rape.

My colleagues have heard what has happened in this country. While violent crimes against men, once they get out of the younger age, is going down, violence against women is going up so that we now know three out of four women will probably be the target of a violent act before they die. That is absolutely unconscionable.

Mr. Speaker, this bill does everything it can to tighten things. It does say that there should be a much more tightened enforcing of protective orders across State lines. The way the bill was originally written, or at least one of them, it was either a fine or 3 months. They have now attempted to tighten that even tighter, but I think that is where we want to go. Basically we want this bill to come out.

Mr. Speaker, I am going to insert in the RECORD along with my statement statistics on violence against women and an article dealing with why we really should have made this a civil rights case. It is not in here because it was too controversial for some people. But I hope people will read the RECORD and understand why we think gender-based crime and those kinds of hate crimes are really targeting women more and more in this country, and we need to deal with that other twin pillar that the gentlewoman from Maryland [Mrs. MORELLA] talked about, and that is sexism that is driving some of this violence, and that is how we could do it. But it is not here yet. We were not ready as a body yet.

But I think this is as comprehensive, and as bipartisan and as agreeable as we can probably get, and I certainly hope we would pass this out so that we could get on to meeting with the Senate and finally doing something at the Federal level is long, long overdue.

Today we have the opportunity to vote on a comprehensive bill that makes the criminal justice system responsive to women—The Violence Against Women Act.

I salute all of your efforts to make this day happen.

When we pass this bill today, we will be sending an important signal to American women, that Congress understands the toll violence in the home and on the streets has had on our families.

Unless we take a serious stand against domestic violence, and sexual assault these crimes will continue to erode the stability of our nation and our families.

Domestic violence and sexual assault are not personal problems anymore. They are crimes. These are crime issues everyday Americans want us to deal with because these are the crimes that they face.

There are two remarkable things about the bills we are taking up today. First, this bill is the result of grassroots activists on the front lines speaking out. The people in our communities have been the primary lobbyists on this bill—not Washington lawyers.

We have 223 cosponsors on this bill. Why? Because members heard from the women in the battered shelters and the rape crisis centers. They met with women who had been stalked and emergency room nurses who had seen first-hand the effects of violence in the home.

Second, this bill has bi-partisan support. I salute Congresswomen SUSAN MOLINARI and CONNIE MORELLA, together with Congressman JIM RAMSTAD, Congressman SCHUMER, and others have all put their hearts and souls into reaching fair compromises. In fact, I would say that this bill is more nonpartisan than bipartisan.

I want to thank you for taking women and their fears about crime seriously and for moving this bill today.

DOMESTIC VIOLENCE AND GUNS

Violence is ripping up the fabric of who we are and women are leading the way of saying "Enough is Enough."

They are not only concerned about the safety of their homes and children, but also of their own personal safety. Violence determines many aspects of women's lives—where they work, where they live, and how they live. Some women won't work in downtown areas at night for fear of their safety. Some women won't go to suburban malls or grocery stores at night for fear of their safety.

It's the extent to which families, especially our children are experiencing violence in their everyday lives, however, which is prompting women's activism against violent crime and gun violence.

There are too many guns out there with so few limitations on who can own them. And it is hampering on our efforts to crack down on crime. Everywhere you turn in the debate on violence you run right smack into guns. The two go hand-in-hand. I see this connection with the issue of domestic violence. Individuals convicted of a crime can't purchase guns. But individuals with outstanding protection orders against them can obtain guns. This bill contains language that would limit access to guns for those convicted of domestic violence, or those that have outstanding protection orders against them. The Senate has this language. It's important and I urge my colleagues to keep this provision.

STATISTICS ON DOMESTIC VIOLENCE

Three out of four women will be victims of a violent crime during their lifetime.

Over the past decade the rape rate has risen four times as fast as the total crime rate.

A woman is 20 times more likely to be raped in the United States than in Japan; and the United States rape rate is 13 times higher than Great Britain's and four times higher than Germany's.

Violence will occur at least once in two-thirds of all marriages.

In the United States, a woman is more likely to be assaulted, injured, raped, or killed by a male partner than any other assailant.

Between 22 to 35 percent of women who visit the emergency rooms are there because of symptoms related to on-going abuse.

54 percent of domestic violence victims sustain injury, compared to 27 percent injured in cases of assault by non-intimates.

Less than 40 percent of reported rapes result in arrest.

The conviction rate for rape is only 3 percent; the conviction rate for robbery is 18 percent.

There are three times as many animal shelters in the United States as there are battered women shelters.

An estimated 2,000 to 4,000 women are beaten to death every year.

STATEMENT OF NOW LEGAL DEFENSE AND EDUCATION FUND ON THE VIOLENCE AGAINST WOMEN ACT, H.R. 1133 BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS; COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES

(By Sally Goldfarb, Senior Staff Attorney)

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you to discuss the Violence Against Women Act, H.R. 1133. I am Sally Goldfarb, Senior Staff Attorney of the NOW Legal Defense and Education Fund (NOW LDEF). NOW LDEF is an independent, nonprofit public interest legal organization dedicated to eliminating sex discrimination and securing equality for women and girls. Violence against women is one of NOW LDEF's chief concerns, and we have been working for several years to support the enactment of the Violence Against Women Act.

On behalf of NOW LDEF, I chair a national task force of almost one thousand organizations and individuals concerned about the epidemic of violence currently facing American women. The task force includes groups from the religious, labor, medical, mental health, aging, civil rights, women's, children's and victims' rights communities, all of which are united by a concern about the impact of violence on the ability of women and girls to participate as equals in our society. I am here today, however, to present the views of the NOW Legal Defense and Education Fund on this important legislation. NOW LDEF strongly endorses the Violence Against Women Act and urges you to support it. I will focus my remarks today on title III of the Act, which we view as a major step forward for women's equality.

THE EPIDEMIC OF VIOLENT CRIME AGAINST WOMEN

In America today, a woman faces a startlingly high likelihood of being the victim of a violent crime. Grim statistics reveal the thread of violence that runs through the lives of American women.

Every 15 seconds, a woman is beaten by her husband or boyfriend.[1]

Every 6 minutes, a woman is forcibly raped.[2]

[1] Footnotes at end of article.

One fifth to one half of American women were sexually abused as children, most of them by an older male relative.[3]

One out of every eight adult women, or at least 12.1 million American women, has been the victim of forcible rape sometime in her lifetime.[4]

Women in all walks of life are are risk.

One out of every four female college students will be sexually attacked before graduating; one in seven will be raped.[5]

The murder rate for women aged 65 and older has climbed by 30 percent since 1974, while the murder rate for men in the same age group has dropped by 6 percent.[6]

African-American women are almost twice as likely to be raped as white women. Yet rapes of African-American women are less likely than rapes of white women to result in prosecution, conviction, and stern sentences.[7]

Domestic violence cuts across all racial, religious, ethnic and socioeconomic lines.[8]

GENDER-MOTIVATED VIOLENCE: AN ASSAULT ON WOMEN'S RIGHT TO EQUALITY

Women and girls are targets for many types of violence because of their sex. It is certainly true that many men are victims of crime, and this is a source of concern as well. However, women must fear not only the crimes that confront all members of our society, but also those that are inflicted exclusively or overwhelmingly on the female half of our population.

During the past decade, rape rates have risen nearly 4 times as fast as the total crime rate.[9]

Since 1974, the rates for assault and many other violent crimes against women have increased dramatically, while the rates for the same crimes against men have actually declined.[10]

Girls are estimated to be two to ten times more likely to suffer childhood sexual abuse than boys.[11]

When half the members of our society are at greater risk of terror, brutality, serious injury and even death even just because they are female, that is a form of discrimination. Moreover, violent attacks reinforce and maintain the disadvantaged status of women as a group.

Empirical studies of convicted rapists demonstrate that they hold extreme attitudes about men's right to dominate women and women's inherent inferiority.[12]

In December 1989, a man murdered fourteen female engineering students in Montreal after proclaiming his vicious hatred of all women and especially of "feminists."[13]

Much like racial attacks, attacks on individual women create a climate of terror that makes all women afraid to step "out of line." Pervasive fear of sexual assault and other crimes forces women to take elaborate precautions that limit their options for education, employment, travel, and other activities.

In recent years, we have made dramatic progress toward legal equality for women. But existing laws against discrimination are worth little if women must jeopardize their physical safety to seek out the opportunities that have been opened to them at home, work, school, and in the community.

THE VIOLENCE AGAINST WOMEN ACT'S CIVIL RIGHTS PROVISION

The versions of the Violence Against Women Act that are under consideration in the House (H.R. 1133) and the Senate (S. 11) both contain a civil rights provision in Title III. Both would declare that crimes of violence motivated by gender are discriminatory and violate the victim's civil rights under federal law. Both provide a civil cause of action for deprivation of this right. A person who proves that a crime of violence was motivated by gender is eligible to receive compensatory damages, punitive damages, injunctive relief and declaratory relief.

However, there are differences between the two bills. In May of this year, the Senate bill was narrowed in several significant ways in an effort to clarify and limit the cause of action provided. These changes were adopted after extensive discussions with federal judges, civil liberties groups, and others concerned about the scope of the proposed civil rights remedy. As a result, Title III of the Senate bill now provides that only crimes against a person, and crimes against property that pose a risk of physical injury to a person, are covered; deletes a presumption that rape and sexual assault are motivated by gender; and adds a requirement that, in order to meet the definition of "crime of violence motivated by gender," the plaintiff must prove that the crime was due, at least in part, to an animus based on gender.

The NOW Legal Defense and Education Fund strongly supports Title III of H.R. 1133 in its present form. We feel that the definition of "crime of violence motivated by gender" furnished in the bill is clear, workable, and sound public policy. However, we have also endorsed the Senate bill, S. 11. Therefore, if it is necessary to modify the House bill along the lines already adopted in the Senate, NOW LDEF will continue to support the legislation. If the term "animus" is adopted, it would be helpful to clarify that the term means simply intent or purpose, as it was originally used in the case Griffin v. Breckenridge, 403 U.S. 88 (1971).

Several important limitations already appear in both H.R. 1133 and S. 11. Both bills contain an explicit statement that the Violence Against Women Act does not confer jurisdiction on federal courts to decide divorce or domestic relations cases. In addition, the civil rights remedy extends only to acts that would rise to the level of a felony under state or federal law. It does not cover random acts of violence unrelated to gender. Thus, it is amply clear that not every crime against a women would qualify. Indeed, the civil rights remedy is gender-neutral and is available to male or female victims of serious gender-motivated crimes.

The burden rests on the plaintiff to prove by a preponderance of the evidence that the crime was motivated by gender. Proving that a crime was gender-motivated under the new law will presumably be analogous to proving that a crime was racially motivated under existing laws. Evidence typically presented in civil rights cases alleging racial violence include: racially derogatory epithets used by the assailant, membership of the victim in a different racial group than the assailant, a history of similar attacks by the assailant against other members of the victim's racial group, a pattern of attacks against victims of a certain race in a certain neighborhood and time period, lack of provocation, use of force that is excessive in light of the absence of other motivations, etc.[14] By substituting "gender" for "race" in the foregoing list, it becomes apparent that many—but not all—crimes against women will qualify as crimes of violence motivated by gender.

Recognizing the gender-discriminatory element in some violent crimes is not radical or unprecedented. Not only does federal law already contain civil remedies for racially-discriminatory violence, but the Hate Crimes Sentencing Enhancement Act of 1993 (H.R. 1152), which passed this House in September and is under consideration as part of the Senate crime bill, provides increased sentences for defendants convicted in federal court of having selected a victim because of gender. The Violence Against Women Act simply takes this principle and applies it to a civil, rather than criminal, remedy. Moreover, unlike the Hate Crimes Sentencing Enhancement Act, application of the Violence Against Women Act is not limited to crimes occurring on federal lands.

To the extent that questions remain about how this cause of action will work in practice, this is to be expected with any cutting-edge legislation. As Judge Stanley Marcus, chair of the U.S. Judicial Conference Ad Hoc Committee on Gender-Based Violence, has helpfully pointed out, it is inevitable that there are some questions about legislation that cannot be answered until cases are litigated and judges have the opportunity to apply the law to specific facts.[15]

WHAT TITLE III WILL ACCOMPLISH

Because of gender-based violence, American women and girls are relegated to a form of second-class citizenship. Just as a democratic society cannot tolerate violence motivated by the victim's membership in a minority racial group, and must pass special laws to combat such oppression, so too we need effective federal laws to combat violent crimes motivate by the victim's gender.

The enactment of civil rights legislation would convey a powerful message: that violence motivated by gender is not merely an individual crime or a personal injury, but is a form of discrimination, and assault on a publicly-shared ideal of equality. When half of our citizens are not safe at home or on the streets because of their sex, our entire society is diminished.

The impact of the legislation would not be purely symbolic, however. Federal recognition that gender-based violence is a form of discrimination is likely to alter the way both men and women regard sexual assault and domestic violence. The impact of this attitudinal change will be felt in homes, streets, and workplaces. It will also be felt in courtrooms. Currently, jury studies and research on gender bias in the judiciary have shown that the "boys will be boys"/"she must have asked for it" mentality that prevails in most sectors of our society has a direct, measurable effect on the outcome of cases involving sexual assault, domestic violence, and a host of other issues where men's violence toward women is directly or tangentially involved.[16] Thus, the educational power of the VAW Act is of immense practical importance to the development of American law.

In addition, many victims who are currently unable to succeed in state criminal and civil proceedings would, for the first time, have access to legal redress.

It is not true that all men who beat or rape women lack the resources to pay damages. In fact, violence against women is found at every socioeconomic level in America. For some victims, even a damages judgment that cannot be collected (or a judgment granting only declaratory or injunctive relief) will be seen as an immensely valuable vindication of their rights.

Enactment of the Violence Against Women Act will not eliminate rape, domestic violence, and other sex-based attacks on women, any more than passage of the civil rights legislation of the 19th century and the mid-20th century has eliminated racism. Nevertheless, the power of this proposed federal civil rights law to improve the prospects

for social justice and equality are substantial.

STATE CRIMINAL AND CIVIL LAWS ARE NOT ADEQUATE TO PROTECT VICTIMS OF GENDER-MOTIVATED CRIME

The existence of state criminal and tort laws covering rape and domestic violence does not do away with the need for a federal civil rights remedy. First, a federal civil rights law would redress a different injury that the injuries that are at issue in state criminal and tort proceedings.[17]

In addition, gender-motivated crimes are currently not being adequately addressed in the state courts.

A woman is forcibly raped by her husband. In over half the states, he is immune from prosecution under many or most circumstances—for example, if the couple is living together and no divorce or separation papers have been filed.[18]

A young woman is sexually assaulted by her boyfriend. Several states have statutes exempting cohabitants and dating companions from sexual assault laws.[19]

A man brutally beats his wife, causing her severe injuries. Interspousal immunity doctrines in at least seven states prevent her from suing him to recover damages for her medical expenses and pain and suffering.[20]

A teenage girl is subjected to incestuous sexual abuse by her father. In some states, strict statutes of limitations require her to bring suit within a few years—which is virtually impossible for an emotionally and economically dependent young person—or else lose forever the chance to pursue a civil legal remedy.[21]

It was recently revealed that the Oakland, California, Police Department closed over 200 rape cases with little or no investigation in 1989 and 1990. The complaints involved rapes of prostitutes and drug users, as well as allegations of acquaintance rape.[22]

A recent Senate Judiciary Committee study showed that only one in 100 forcible rapes results in a sentence of more than one year in prison.[23]

State rape shield laws do not apply in civil cases. Thus women bringing tort actions for sexual assault are routinely subjected to intrusive questions about consensual sexual activity unrelated to the attack.[24]

The laws on the books are only part of the problem. In states throughout the country, prosecutors, juries, and judges routinely subject female victims of rape and domestic violence to a wide range of unfair and degrading treatment that contributes to the low rates of reporting and conviction that characterize these crimes.[25] Although federal courts are not immune from these problems, the fact that federal judges are not elected, are subjected to a more rigorous selection process, and typically exercise greater control over courtroom procedures such as jury voir dire help to minimize these problems.

Federal civil rights laws passed since the mid-19th century typically have prohibited acts that were already illegal under state law. The reason for this is that federal remedies are needed to reinforce state remedies and to provide a "back-up" when the state justice system is unable to protect victims' rights adequately. In an eloquent testimony to the need for federal intervention, 41 state attorneys general have signed a letter to members of this House urging passage of the Violence Against Women Act.

THE VIOLENCE AGAINST WOMEN ACT BUILDS ON AND COMPLEMENTS EXISTING FEDERAL CIVIL RIGHTS LAWS

Currently, American women are being attacked and killed because they are women. Over 100 years ago, following the Civil War, Congress responded to an epidemic of race-based violence by passing a series of federal laws to provide remedies against private individuals who deprive citizens of their civil rights. Similar legislation is needed today to protect citizens from an epidemic of gender-based violence.

Title III of the Violence Against Women Act is modeled on well-established federal civil rights laws. For example, the key phrase "because of * * * gender or on the basis of gender," which describes crimes of violence that are covered, is modeled on language found in Title VII of the Civil Rights Act of 1964, which is the leading federal statute prohibiting discrimination in employment.

Similarly, the basic concept of Title III resembles that of the Reconstruction-era civil rights laws. Like those earlier laws (42 U.S.C. §§1981, 1982, 1983, and 1985(3)), the Violence Against Women Act provides a federal civil remedy for deprivation of certain rights. The "animus" requirement, which has been added to S. 11, is derived from caselaw decided under 42 U.S.C. §1985(3).

Title III is not identical to its predecessors, however. Each law has different technical legal requirements. For example, unlike §1983, Title III does not require that the challenged actions were taken "under color of state law," and unlike §1985(3), it does not require more than one wrongdoer. While Title III is thus broader in some respects than other civil rights laws, it is far narrower in other respects: it protects only against gender-motivated crimes of violence that rise to the level of a felony, whereas 42 U.S.C. §§1983 and 1985(3) protect disadvantaged groups from virtually any deprivations of rights, privileges and immunities.

The differences between Title III of the Violence Against Women Act and the nineteenth-century federal civil rights laws are necessary because gender-based violence typically differs from the types of racial violence directed against men. For instance, §1985(3) was drafted to combat the Ku Klux Klan and similar conspiracies. The dangers confronting women of all races are often quite different. Conspiratorial group attacks on women are not the primary cause of gender violence. In fact, women are six times more likely than men to suffer a crime at the hands of someone they know.[26]

The Reconstruction-era civil rights laws were not designed with women in mind. For 120 years since they were passed, women of all races have lacked a meaningful civil rights remedy to protect them from pervasive anti-female violence. While §§1983 and 1985(3) fall short of providing ideal protection against discrimination based on race, religion, or national origin, they at least provide a meaningful remedy for a significant percentage of such cases. The fact that these two statutes require the plaintiff to prove conspiracy or color of state law virtually eliminates the possibility that women of any race can redress what is arguably the most common and most demanding form of gender discrimination: acts of gender-motivated violence committed by private individuals.

This defect in existing civil rights laws has meant, among other things, that rape by individual white men acting in a private capacity, which has historically been a widespread form of oppression of African-American women, has never been actionable under the civil rights laws ostensibly designed to protect all African-Americans from racial terrorism. In short, most of the victimization that women experience because of their gender alone, or because of their gender in combination with their race, remains ignored by the federal civil rights laws currently on the books.

It should be noted that NOW LDEF would support broadening Title III of the Violence Against Women Act to provide the same civil remedy for victims of violent crime motivated by race, color, religion, national origin, ethnicity, and sexual orientation. However, if this is not feasible, we view the current focus on gender-motivated violence as appropriate. It would be a tragedy to delay this long-overdue response to a significant social problem because of concerns that it does not adequately address a host of other social problems that are beyond its scope.

A question has been raised as to whether the Violence Against Women Act will have a negative effect on enforcement of existing civil rights laws. This always has been a primary consideration for the NOW Legal Defense and Education Fund. We have sought input from eminent scholars and civil rights experts throughout the country to ensure that this bill is drafted to create new rights without curtailing existing ones. No one has identified any way in which Title III of the Violence Against Women Act would have a damaging effect on the development of law under current civil rights statutes.

THE IMPACT OF TITLE III ON THE COURTS

Some observers have suggested that lawsuits brought under the Violence Against Women Act will overwhelm the federal courts. In fact, the legislation will provide a significant new remedy without generating a large number of new cases.

For example, sexual assault is a tort in every state, but a study by Jury Verdict Research, Inc. found only 255 civil jury trials in sex assault cases over a ten-year period.[27] The inhospitability of state courts to such claims (see above) is doubtless one reason why this figure is so low, but there are other reasons that would be equally applicable to cases brought under federal law. One fact that is not going to change is that rape and domestic violence are vastly underreported. The causes of this phenomenon are numerous and complex and include the severe stigma that still attaches to victims of these crimes. Women do not now, and will not in the future, rush to proclaim themselves as victims of sex crimes or of violence inflicted by family members.

Sexual harassment provides a useful analogy. A major study by the U.S. Merit Systems Protection Board found that 42% of women employed by the federal government had experienced sexual harassment, but despite the availability of legal remedies, only 5% of those who had been sexually harassed made any kind of formal complaint (including complaints in the workplace); an even smaller number actually filed a legal action.[28]

Moreover, a certain number of potential VAW Act defendants (though by no means all) are indigent, and many women and their attorneys may be unwilling to bring suit if there is no hope of collecting damages. And of course, a large number of violent gender-motivated crimes are committed by assailants who are never caught. As Prof. Cass Sunstein has pointed out, the fact that few cases will probably be filed under Title III of the VAW Act does not detract from its importance as an addition to the civil rights legal arsenal.[29]

The fact that a bill to enhance the rights of women is met with a concern for overloading the federal courts adds a disturbing note of sexism to the debate. In recent decades,

when Congress was considering the Americans With Disabilities Act and other civil rights legislation that created private rights of action, this concern was heard only from staunch opponents of civil rights. In any event, the fact that violence against women is widespread would seem to argue in favor of, not against, passing legislation to remedy it.

The true burdens on the federal courts are a heavy criminal caseload, particularly drug-related cases, together with a large number of vacant judgeships. Keeping civil rights cases out of federal court will not solve these problems.

It should be noted that in March 1993, the U.S. Judicial Conference revoked its previous opposition to the Violence Against Women Act and specifically adopted a position of neutrality on this bill, with the exception that the organization now actively supports the portions of the bill regarding task forces on gender bias in the courts.[30] The National Association of Women Judges also supports the principles of Title III.[31] A recent Congressional Budget Office report estimates the cost of Title III to be far lower than previously projected.[32]

Finally, it has been suggested that money saved by not having federal courts hear civil rights cases could be redirected to battered women's shelters, local police departments, or other programs that serve victims of violence. There is no realistic likelihood that funds not spent by the federal courts would wind up in the budgets of such unrelated entitles. In any case, the Violence Against Women Act already contains grant programs designed to fund direct services. Furnishing civil rights redress for discrimination is a fundamentally different issue and should not be seen as a tradeoff against direct services to victims of violent crime.

CONGRESS HAS CONSTITUTIONAL AUTHORITY TO ENACT THIS LEGISLATION

Federal legislation to remedy gender-based crime is amply justified by Congress's obligation to advance principles of equal rights under section 5 of the Fourteenth Amendment. Constitutional authority to enact this legislation is also conferred by the Commerce Clause, due to the damaging impact of gender-based crime on the national economy.

On a national level, domestic violence costs employers 3 to 5 billion dollars annually due to worker absenteeism.[33]

30 percent of all women seeking treatment in hospital emergency rooms are victims of battering by a husband or boyfriend. Medical costs related to domestic abuse are estimated at $100 million a year.[34]

High rates of rape and other crimes deter women from taking many types of jobs, including high-paying night jobs that would require travel on unsafe streets and public transportation. For instance, one rape survivor reported in testimony to the U.S. Senate Judiciary Committee that she had to give up plans for a career in real estate sales because she was afraid to be alone in an empty house with a stranger.[35]

Homicide is the leading cause of death on the job for women. (For men, the leading cause is accidents.)[36]

More than half of all homeless women have lost their housing because they are fleeing domestic violence.[37]

Leading scholars of constitutional law have testified in support of Congressional power to enact the Violence Against Women Act.[38]

CONCLUSION

The Congress has a historic opportunity to play a crucial role in the effort to reduce crime and combat discrimination against women. This long overdue legislation will recognize that violence motivated by gender is a deprivation of civil rights. We urge you to support the Violence Against Women Act. Thank you.

FOOTNOTES

[1] "NCADV Statistics May 1988," National Coalition Against Domestic Violence Newsletter 1 (Feb. 1990), citing Bureau of Justice Statistics, Preventing Domestic Violence Against Women, Special Report (Aug. 1986).

[2] Federal Bureau of Investigation, Crime in the United States 66 (Aug. 5, 1990).

[3] Paula Hawkins, Children at Risk 58 (1986) (former Senator Hawkins summarizing testimony on child sexual abuse received by U.S. Senate Subcommittee on Children, Family, Drugs and Alcoholism); Diana Russell, Sexual Exploitation: Rape, Child Sexual Abuse, and Workplace Harassment 180-194 (1984); Roland Summit, "Recognition and Treatment of Child Sexual Abuse" at p. 117-18, in Coping With Pediatric Illness (C. Hollingsworth ed. 1983).

[4] National Victim Center and Crime Victims Research and Treatment Center, Rape in America: A Report to the Nation 3 (Apr. 23, 1992).

[5] Testimony of Mary P. Koss, Ph.D., on behalf of the American Psychological Association, before the U.S. Senate Judiciary Committee (Aug. 29, 1990).

[6] U.S. Senate Judiciary Committee, Ten Facts About Violence Against Women (June 18, 1990) (attachment).

[7] See, e.g., LaFree, Reskin and Visher, "Jurors' Response to Victims; Behavior and Legal Issues in Sexual Assault Trials," 32 Social Problems 389 (1985).

[8] See generally U.S. Commission on Civil Rights, Battered Women: Issues of Public Policy (1978).

[9] U.S. Senate Judiciary Committee, Ten Facts About Violence Against Women (June 18, 1990).

[10] Id.

[11] K. Swink and A. Leveille, "From Victim to Survivor: A New Look at the Issues and Recovery Process for Adult Incest Survivors," in The Dynamics of Feminist Therapy p. 119 (D. Howard ed. 1986).

[12] See, e.g., Timothy Beneke, Men on Rape (1982).

[13] Pitt, "Montreal Gunman Had Suicide Note," N.Y. Times, Dec. 8, 1989, at p. A9; "Gunman Kills 14 Women at Montreal University," N.Y. Times, Dec. 7, 1989, at p. A23.

[14] See generally Center for Women Policy Studies, Violence Against Women as Bias Motivated Hate Crime: Defining the Issues (1991).

[15] endnote to be added

[16] endnote to be added

[17] Only eight states (California, Connecticut, Iowa, Massachusetts, Michigan, New Jersey, Vermont and Washington) and the District of Columbia provide civil remedies for the discrimination inflicted by gender-based violence.

[18] National Center on Women and Family Law, Marital Rape Exemption (1988).

[19] See, e.g., Del. Code Ann. tit. 11, Sections 774, 775 (Supp. 1992).

[20] Leonard Karp and Cheryl Karp, Domestic Torts (1989; 1993 Supp.).

[21] See generally NOW Legal Defense and Education Fund, Legal Resource Kit On Incest and Child Sexual Abuse (1993).

[22] endnote to be added

[23] footnote to be added

[24] endnote to be added

[25] See generally Schafran, Overwhelming Evidence: Reports on Gender Bias in the Courts, Trial 28 (Feb. 1990).

[26] Lewin, In Crime, Too, Some Gender-Related Inequities, N.Y. Times, Jan. 20, 1991 (citing Bureau of Justice Statistics study).

[27] Senate Judiciary Committee Report, "The Violence Against Women Act of 1991," at 44 n. 43 (Oct. 22, 1991).

[28] U.S. Merit Systems Protection Board, "Sexual Harassment in the Federal Government: An Update" (June 1988).

[29] endnote to be added

[30] See Summary of the Report of the Judicial Conference Ad Hoc Committee on Gender-Based Violence (March 1993).

[31] See Judith Billings, "Violence Against Women Act," NAWJ Counterbalance at 2 (Summer 1993).

[32] Congressional Budget Office, Cost Estimate [for S.11] (June 30, 1993).

[33] Porter, "Help Is Available for Battered Women," Washington Star, Nov. 1, 1979.

[34] Id.

[35] Statement of Nancy Ziegenmeyer before the U.S. Senate Judiciary Committee (June 20, 1990).

[36] "High Murder Rate for Women on the Job," N.Y. Times, Oct. 3, 1993, p. 29, col. 1.

[37] U.S. Senate Judiciary Committee, Ten Facts About Domestic Violence Against Women, Dec. 11, 1990.

[38] Statements of Prof. Burt Neuborne and Prof. Cass Sunstein before the U.S. Senate Judiciary Committee (April 9, 1991).

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking member, for yielding this time to me.

We have heard the statistics. We have marveled at how little has been done. What we fail to concentrate on, however, as a country, are the names, and the faces, and the bodies, and the souls that are destroyed every 15 seconds in America, up until this point. Today we take a very important first step in acknowledging that domestic violence and sexual assault is, in fact, a crime in these United States.

The Violence Against Women Act, as passed by the Committee on the Judiciary, is the result of bipartisan effort. It combines provisions of the original Violence Against Women Act of the gentlewoman from Colorado [Mrs. SCHROEDER] with key portions of the Sexual Assault Prevention Act which was introduced 2 years ago by Senator DOLE and myself. The resulting package will help address violent crimes against women.

Several of the elements of the Sexual Assault Prevention Act included in this bill provide for free testing for sexually transmitted diseases including HIV testing for all victims of sexual assault. It provides for recognition and enforcement of protective orders issued in one State by the courts of all States. It directs the Justice Department to study and suggest strategies for combating and finding solutions for combating campus sexual assaults and for keeping confidential the addresses of victims of domestic violence who have fled their abusers and for helping States maintain better records of domestic violence. The bill also extends and strengthens restitution for victims of sexual assault.

I would like to join with my colleagues in thanking the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from Minnesota [Mr. RAMSTAD], the gentleman from New York [Mr. SCHUMER], the chairman, the gentleman from Texas [Mr. BROOKS], and of course the gentlewoman from Colorado [Mrs. SCHROEDER]. Together we must work every day in this body to raise the consciousness of crimes against all members of our society, but, when one particular group of our society has been neglected, it should be a higher calling.

Since I first introduced the provisions of the Sexual Assault Prevention Act in 1991, Mr. Speaker, over 300,000

forceable rapes have been reported, and missions of women have been abused by their spouses and partners. Today we do not find the ultimate solution to those crimes; we just join with our friends in America by saying, We care, and we will continue to work as a legislative body to find those solutions so that one day all women will be able to walk in the United States of America with a little less fear.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. SCHUMER], the distinguished chairman of the subcommittee.

□ 1330

Mr. SCHUMER. Mr. Speaker, I could stand here and recite appalling fact after appalling fact. A woman is raped in America every 5 minutes. More than a third of the women in emergency rooms are put there by domestic violence. But these numbers do not begin to tell the whole story. That is because here is a dirty little secret hidden here, and that secret is that our legal system is all too indifferent to this violence.

Our legal system looks the other way, tolerating the daily battering and abuse of women. To really understand this, we have to listen to the stories of the victims themselves. The hearings on this bill which my subcommittee has conducted over the past several years have built an appalling record, and I wish that every Member in the Chamber could hear the stories firsthand.

A woman is raped; she goes to the police and is told, "You aren't really hurt. Just try and forget about it."

Another victim is told by the prosecutor, "I won't bring this case because you were wearing a short skirt."

A woman has her nose broken by her husband. When the police finally come, they say, "You two work out your problems together."

A woman goes before a judge asking a protection order from a husband she has tried to leave, and the judge says, "Why are you two wasting our time with marital squabbles?"

These are not apocryphal stories. they are real, and these attitudes are the residue of actual legal doctrines that for centuries treated woman as second-class citizens in the courts. These were doctrines like the English common law rule of thumb that said that a man was allowed to beat his wife with a stick so long as the stick was no thicker than his thumb, or like the rule in rape trials that said the victim's testimony could not be considered credible unless it was corroborated by another witness. Imagine, there would have to be another witness to watch the rape to corroborate it.

There were rules of evidence that allowed rape defendants to turn the trial into a question of whether the victim was loose.

Thankfully, these doctrines are gone for the most part, but the attitudes they engendered are still with us.

As a lead cosponsor of the bill, working with the gentlewoman from Colorado [Mrs. SCHROEDER], the gentlewoman from New York [Ms. SLAUGHTER], and my friends on the other side of the aisle, the gentlewoman from New York [Ms. MOLINARI] and the gentleman from Minnesota [Mr. RAMSTAD], let me state simply and clearly what this bill says. The bill says that the day is gone when violence against women is beneath the dignity of the legal system. Violence against women is not a private matter. It is not a behind-closed-doors issue. Rape and spouse abuse are violent crimes. They must be treated that way.

For many women, the fear of violence dictates decisions like where to walk or what time to go out or how to travel. Even employment decisions can be affected. Women in surveys say that they avoid jobs that require them to travel alone at night or to work in deserted buildings. Domestic violence robs women of security in the one place they are most entitled to it, in their own homes.

The bill will target resources to State and local law enforcement. The money will be used for policies that have proven effective like mandatory arrest of domestic violence offenders, and the bill will also make interstate domestic violence and interstate stalking Federal crimes. Local law enforcement has been particularly ineffective in cases where a woman leaves her husband or boy friend and moves to another State, but the batterer follows her.

Mr. Speaker, I want to thank the chairman of the committee and all those who worked so hard. This is truly an historic day. I look forward to moving this bill in conference with the Senate so we can gain final passage.

Mr. SENSENBRENNER. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come here again today just pleading with these committees to find some way to coordinate our efforts. There just has to be a better way to do it.

In this piece of legislation, under subtitle E, section 151, Campus Sexual Assault Study, you will discover that it is practically the same as appears in a law that was enacted in 1990 and was also updated in 1992. In other words, we are going to spend $200,000 to do a study that we are already doing. We are already collecting all this information, and I would hope that we could find some way to coordinate that, because that $200,000 could really go to doing something positively after we have those statistics which at the present time have to be reported.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman makes a good point. My understanding as to why this was put in here is this: We are very pleased that that happened, and what the gentleman is talking about is that schools are to be out keeping statistics on this and looking at how they are doing. This is asking Justice to try to coordinate an overview of how our schools are dealing with the enforcement and how widespread the problem is, and my hope is that it is more coordinated than the gentleman thinks. That is why we put it in.

Mr. GOODLING. But we have to coordinate it with the present legislation, because, as I said, in the legislation that is presently on the books they must not only give all those statistics to the students, to the parents, and all the employees, they must also tell what are the ideal ways of dealing with this problem. They also must report what it is they are doing on campus at the present time to prevent this.

This all happened when a beautiful girl was raped and murdered in her own dormitory more than 5 years ago, and her mother, instead of spending the rest of her time pining away, went to every State legislature to push this legislation and came to the Congress, and in 1990 we introduced this and enacted it, and in 1992 we updated it.

So what I am saying basically is, please let us coordinate this because otherwise we are wasting $200,000 that could be better used.

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield, that is what we are trying to do.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, as an original cosponsor of the Violence Against Women Act, I rise in strong support of the bill.

The time to pass this important legislation is now. The statistics, as we have heard this morning, are truly mind-boggling. If we look at the unreported rapes as well as the reported rapes, Justice estimates that as many as 12,000 women in America are raped every week. Every 15 seconds a woman is battered. No other civilized society in world history has ever tolerated this level of violence against women. That is why we are here today to pass the Violence Against Women Act before Congress adjourns.

We can no longer ignore the fact that violence against women has reached epidemic proportions, nor can we continue to ignore its devastating effect

on women's lives and families and the civil rights of women. This much-needed legislation would attack this problem in a comprehensive way.

Mr. Speaker, I want to applaud the gentlewoman from Colorado [Mrs. SCHROEDER] for her leadership on this bill, reaching out to the ranking member, to the gentlewoman from New York [Ms. MOLINARI] and to me in a bipartisan way to craft this important legislation.

Congress should pass this bill without further delay, Mr. Speaker, because the women of America deserve nothing less.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of H.R. 1133, The Violence Against Women Act of 1993, and I would like to commend the gentlewoman from Colorado [Mrs. SCHROEDER], the gentlewoman from Maryland [Mrs. MORELLA], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from New York [Mr. SCHUMER], for their dedicated work on behalf of our Nation's women. I also command the distinguished chairman of the Judiciary Committee, the gentleman from Texas, [Mr. BROOKS] and the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking minority member of the Judiciary Committee for bringing this measure to the floor before we adjourn.

Mr. Speaker, every year hundreds of thousands of wives are abused by their husbands, and more than 1 million children suffer from physical, sexual, and emotional maltreatment. One in 12 women are beaten while they are pregnant, and approximately one-third of women killed are murdered by their boyfriends or spouses.

The crimes committed behind closed doors and beneath the shroud of family privacy are perhaps the most despicable in our society. There is a constant outcry from the American public for the Government to help make the streets safe—what we also desperately need are safe homes—for our women and for our children.

I firmly believe that, as a Nation, we must combat the violent crime that is aimed at women. Accordingly, I am proud to have cosponsored the Violence Against Women Act.

H.R. 1133, institutes Federal criminal penalties for offenders who travel across State lines to cause bodily harm to their spouse or intimate partner, or who violate protection orders. This legislation also provides mandatory restitution to the victim of such offense and allows the victim to testify in court regarding the danger posed by the defendant for the purpose of determining whether the defendant should be released pending trial. In addition, this measure requires States to enforce protection orders issued by the courts of other States.

While I believe the House must address a comprehensive crime package, including an intensive look at what is happening to our Nation's war on drugs, this legislation represents a vitally important step in the process of strengthening the protections for women. Accordingly, I urge my colleagues to fully support this important measure.

□ 1340

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, we have all heard the statistics regarding sexual and domestic violence and yet each time we hear them they are no less shocking. Violence is one of the most critical issues facing women in this country. During the 6 minutes it takes to deliver this statement, two women will be raped in the United States.

In my home State of Arizona, four women will be raped today. And, tomorrow there will be four more. In Phoenix alone last year, there were 476 rapes reported. The National Victim Center reports that one in eight women will be raped in her lifetime.

In 1992, Phoenix police responded to almost 33,000 domestic violence calls. Between 10 and 20 percent of all homicides in Phoenix are the result of domestic violence.

The bill under consideration today represents a first step toward educating the public about the horrific toll that sexual assault against women and children is taking on America. The bill under consideration takes the Sexual Assault Prevention Act [SAPA] and the Violence Against Women Act and merges noncontroversial sections of both bills.

Ten years ago, I helped found the Crime Victim Foundation, a nonprofit, victim assistance organization in Phoenix. The foundation is one of a handful of support groups that provide critical help to crime victims and their families. My work with this organization and my desire to making a real difference in this area has made passage of the Sexual Assault Prevention Act a high priority for me.

I am pleased that the compromise reached this week will include several of its provisions, including: Mandating financial restitution be paid to victims of Federal sex offenses, payment to victims of sexual assault for the cost of testing for sexually transmitted diseases, federal criminal penalties for interstate travel to commit spouse abuse or to violate a protective order, creation of a new offense for interstate stalking, a task force on violence against women, a study on sexual assault on college campuses, full faith and credit in protective orders, and a report on victim confidentiality.

To Representatives SUSAN MOLINARI, PAT SCHROEDER, and JIM RAMSTAD I would like to extend my appreciation for making it possible to bring these sexual assault initiatives to the House floor for a vote. And, I know that each of these members is committed to bringing other meaningful measures to protect and empower victims of sexual violence to the floor as quickly as possible when Congress reconvenes in January.

Although this legislation will provide a good base, a good beginning for reform of our sexual violence laws, there are critical omissions in this bill. I want to mention provisions of the Sexual Assault Prevention Act that were not included in the compromise today. These provisions would level the playing field in court and help to ameliorate the psychological damage a rape victim often experiences going through the judicial process.

The rules of evidence provisions of SAPA, for example, would broaden the admissibility of evidence in court that the accused sex offender had committed offenses of the same type on other occasions and would make it more difficult to admit evidence of past conduct of the victim if it has nothing to do with the issue of consent to act that is the subject of the prosecution.

In rape and child molestation cases, allowing the admission of evidence is critical to the integrity of the judicial process. In most rape cases, it is the word of the defendant against the word of the victim. If the defendant has committed similar acts in the past, the claims of the victim are more likely to be considered truthful if there is substantiation of other assaults.

It is also common in rape and child molestation cases that the victim is too traumatized, intimidated, or humiliated to file a complaint and go through the full course of proceedings of a criminal prosecution. Nevertheless, the victims in such cases are often willing to bear the burden of testifying when the find out that the person who marred their lives has also victimized others.

What we have here is an opportunity not only to change the Federal Rules of Evidence but to provide States with a model on which to base reforms of their rules of evidence.

Amendments allowing evidence of similar crimes of the accused and the inadmissibility of evidence to show provocation or invitation by victims in sex offense cases, as well as a number of other provisions from the Sexual Assault Prevention Act introduced by Senator DOLE, have been incorporated into the Senate crime bill.

Earlier in the year, I chaired a hearing on sexual violence and H.R. 688 as cochairman of the Republican Study Committee Women's Task Force. At that hearing, witnesses testified that the most important thing we can do to

protect and empower our citizens from sexual and domestic violence is through a restructuring of our criminal justice system.

Some of the changes witnesses indicated strong support for included increasing authorized penalties for repeat sex offenders and child abusers, protecting the victim's right to an impartial jury by equalizing the number of peremptory challenges accorded to the defense and to the prosecution in felony cases, sentencing guideline increases for sex offenses, pretrial detention in serious sex offense and stalking cases, and increasing penalties for sex offenses against victims below the age of 16—all except pretrial detention passed as similar amendments to H.R. 3371, the Omnibus Crime Control Act of 1991.

Paul McNulty, former director of policy at the Department of Justice and witness at the task force hearing, said at the hearing, "Given what we know about the recidivist nature of sex offenders, you might think that the criminal justice system does all that it can to keep them in prison. Unfortunately, nothing could be further from the truth. The majority of those who are arrested for rape are not sentenced to prison. Only 33 percent of all such arrestees go to prison. For those who are sent to prison, only a fraction of their sentences are actually served. * * * It is, therefore, quite clear that the most effective way to prevent sexual assault is to punish violent criminals by removing them from the streets. * * * That is why we strongly endorse H.R. 688. * * * As Attorney General William Barr stated last year when discussing this bill, "It brings criminals to justice and justice to victims."

I rise in support of the legislation before us today. But, for the 6-year-old boy assaulted in Paradise Valley, AZ, the 32-year-old Hispanic woman beaten and raped by her husband in south Phoenix, AZ, the 67-year-old Phoenix woman terrorized in her own home by a stranger who simply knocked on the door, and for all the other victims, it is our responsibility to pass legislation to remove violent sex offenders from our streets and our communities and to increase the rights of the victim. It is time to pass the Sexual Assault Prevention Act in its entirety. I look forward to working next year toward passage of this important legislation, and in the meantime urge approval of the bill before us.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise today in support of the Violence Against Women Act of 1993. Each year, 3 to 4 million women are battered by their husbands or partners. This frightening statistic compels us to support this legislation. It is time to protect and empower the victims of sexual and domestic violence, prosecute their aggressors, and put an end to the pain and suffering caused by criminals who too often get away with murder.

This legislation provides badly needed funding to combat sexual violence and treat released offenders. In addition, the bill funds treatment programs for sex offenders, and community education and awareness programs.

In Florida's fourth congressional district, the Hubbard House provides an alternative for battered women. It is a full service domestic violence center which provides a safe, nonviolent place for women to plan their futures.

Our country needs more Hubbard Houses. The services this refuge provides are critical to empowering victims of domestic violence and rehabilitating their partners. Your support for the Violence Against Women Act of 1993 will give battered women the chance they deserve.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the charges that the Committee on the Judiciary has not acted on major legislation, I want to respond.

In a bipartisan manner, this House passed a crime bill and passed a conference report in the last Congress. They went to the other body, and the other body sat around over there and let the other party, the Republicans in that other body, stymie and kill and delay and stop that bill. That is what happened to the last big crime bill that we, the Democrats and Republicans in this body, tried to get through the House of Representatives.

This year already, this committee and this Congress has passed, generally with strong bipartisan support I might add, the DNA testing bill, the juvenile antigang and antidrug bill, the certainty of punishment, for Youthful Offenders Act, drug treatment for Federal prisoners, drug-free program for State prisons, cops on the beat, the Jacob Wetterling bill, to register convicted child abusers, the national child protection bill, the youth handgun safety bill, the international parental kidnapping bill, one which everybody understands, violence against women, which we are taking up now. We've passed bills to help States prosecute drunk drivers, to protect reproductive health services, and to allow FBI access to certain telephone subscriber information. The Brady bill, we passed in this House. It is over in the other body. We passed a good clean bill that I thought they would have adopted.

Mr. Speaker, I would say that the Committee on the Judiciary has tried in every way possible to meet the most emergent criminal problems that we have in this country. I will tell you right now that the Senate has passed a bill that has spent more money than they ever conceived of, $22 billion. I wonder where they are going to get it? They had a big smoke and mirrors act over there. But we do not have that kind of smoke and mirrors. The gentleman from Wisconsin [Mr. SENSENBRENNER] does not use those kinds of mirrors and smoke. I do not.

Mr. Speaker, we do not understand that. Where are you going to get another $6 billion for regional prisons and another $11 billion for the total? I think it is very difficult, and I do not see the point in passing a bunch of legislation if you are not ultimately going to have some promise of getting the appropriations to do that.

We just pass authorizations in this committee, I understand that, but I have the hope that we will get the funding on these bills that we have passed.

Mr. Speaker, I would say that I hope Members will appreciate that fact and will solidly support this Violence Against Women Act. It is long overdue. It certainly ought to be passed. I anticipate a solid vote for it on both sides, and I am delighted to be a part of it.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support for H.R. 1133.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, earlier in this debate the gentleman from Texas [Mr. BROOKS], in explaining the change in language relative to protective orders, gave the impression that if his language were not passed, there would be no Federal tools to prosecute those for murder or bodily injury committed in pursuance of violation of a protective order.

That is not the case. There are State and Federal laws on the books all over this country that allow for the prosecution of murder or bodily injury under whatever circumstances those crimes are committed.

What has happened here is that the Committee on the Judiciary, after a discussion, voted to continue the mandatory minimum imprisonment of not less than 3 months for interstate violation of a protective order. That mandatory minimum time in prison disappeared between the time the committee voted on this bill and the time it was brought up here under suspension of the rules, and that is a significant weakening of the tools that law enforcement have for those who cross State lines in violation of a protective order.

I think a 3-month mandatory minimum for someone who violates a protective order that was issued upon

showing of a cause and where the person who would be charged with such a violation knew exactly what was in the protective order is reasonable.

When the Committee on the Judiciary debated the bill, an amendment striking the mandatory minimum was defeated and withdrawn when it did not have support in committee. After having been rejected in committee, something similar arises from the ashes, like a phoenix, and finds its way into this bill.

That is what is wrong with the procedure in Congress. We are going to have to bite our lips and accept that, whether we like it or not, because the consequences of taking this out would be defeat of the whole bill, which would be a tragedy.

Mr. Speaker, I support the bill, even though it got weakened unilaterally.

Ms. SNOWE. Mr. Speaker, I rise in support of the Violence Against Women Act of 1993. Every 15 seconds, a woman in the United States is battered, and every 6 minutes, a woman is raped. Nearly one-third of all women murdered in the United States in 1991 were murdered by boyfriends or husbands.

What does this mean? We know that battering and rape are under-reported crimes because of the heavy toll they take upon women's self-esteem in addition to the physical damage they cause women. Society still asks, "What did she do to deserve this?"

People need to think about violence against women in different terms. They need to view crimes against women as part of a gender gap, and to think of these acts of violence in terms of equality. They need to realize that these crimes are ones that women suffer and men do not.

What crimes are we talking about? A 1992 report of the Senate Judiciary Committee described 200 incidents from police blotters and battered-women's shelters for the first week in September. These crimes include scalding, burning with cigarettes, beating with fists, slamming against walls, hitting with hammers, pushing out of moving cars, sexual assault, strangling, stabbing, and shooting. Words cannot adequately describe the horror of these heinous crimes committed against women.

That is why I ask my colleagues to support the Violence Against Women Act. This bill addresses the severity of the problems with which States throughout the Nation have had to grapple. There is evidence that States have had their own enforcement revolution. In the last 2 years, 48 States have passed anti-stalking laws. In 15 states, arrest is mandatory for crimes of domestic violence, and in 19 States, it is mandatory for violating a protection order. Other States and local jurisdictions have stringent enforcement policies. However, many criminal justice experts say that police often hesitate to act because they do not want to interfere in domestic disputes.

The Violence Against Women Act addresses a broad range of problems, including making the streets safer, making homes more secure and providing equal justice for women in the courts. It provides for grants to States, local governments and nongovernmental victim service programs to develop effective strategies to combat violent crimes against women. It authorizes grants for rape awareness and prevention education and conflict resolution for school-aged children. It creates a training program for personnel working with sex offenders and requires compensation for certain expenses of victims of sex offenses. It authorizes the Attorney General to study the problem of sexual assault on college campuses and creates Federal penalties for anyone who travels across State lines to contact their spouse or intimate partner and harms them. It also authorizes funds for a private, nonprofit organization to establish and operate a national 1–800 hotline to provide information and assistance to victims of domestic abuse.

Continued violence against women can rapidly strike down any gains women make in the workplace, in health care reform and in Congress. The numbers do not lie. Violence occurs at least once in two-thirds of all marriages. Ninety-five percent of victims of domestic violence are women. It is estimated that 2,000 to 4,000 women are beaten to death each year. The Surgeon General says that battering "is the single largest cause of injury to women in the United States." Clearly, action is needed.

The Senate passed its own version of the Violence Against Women Act as part of the crime bill. This body can do no less. I urge my colleagues to vote for the Violence Against Women Act, and thereby end an era of inequity and begin a new national consensus that gender-based crimes will not be tolerated.

Ms. SLAUGHTER. Mr. Speaker, I rise in support of the Violence Against Women Act, a landmark measure to protect women from domestic abuse, rape, and other violent crimes.

Every 15 seconds a woman is beaten; every 46 seconds, a woman is forcibly raped in this country. It is imperative that we act to curb this spread of violence against women.

H.R. 1133 is the strong action we need. It provides funding for rape prevention efforts, and for expanded law enforcement and prosecution. It calls for a study of campus sexual assaults, and establishment of a National Board on Violent Crime to review and evaluate Federal programs and policies. The bill also provides training for law enforcement officials, including judges, to deal more effectively and compassionately with domestic violence cases. Each of these measures is long overdue, and I am pleased and proud that we have the opportunity to enact them here today.

I am also pleased that the Violence Against Women Act includes a provision entitled "Safe Homes for Immigrant Women."

For too long, immigrant women have been forced to remain in destructive marriages with husbands who beat and abuse them—because they are entirely dependent on that abusive spouse for their legal status.

This legislation will give abused immigrant wives the right to self-petition for legal status. In addition, it will also cover immigrant women whose children are being abused by the father.

I am proud to be a cosponsor of this landmark legislation, and I urge my colleagues to lend their strong support to ending violence against women in this country.

Ms. FURSE. Mr. Speaker, I rise today in support of the Violence Against Women Act, H.R. 1133. The Violence Against Women Act is a landmark bill which will truly help many women feel safer in their homes and on the streets. This legislation addresses gender inequities in the law, requires all States to enforce interstate restraining orders, encourages mandatory arrest policies, authorizes assistance to victims of rape, and provides education and training to law enforcement and judges on the issues of violent crimes against women.

I want to thank my colleagues, Mrs. SCHROEDER, Mr. RAMSTAD, and Crime Subcommittee Chair SCHUMER for making it possible for me to include in this bill legislation that I introduced in the House earlier this year. The Domestic Violence Community Initiatives Act, H.R. 3335, which I coauthored with Senator MARK HATFIELD, encourages police, victims' advocates, the courts, physicians and hospitals, churches, and other community organizations to work together to prevent and break this cycle of abuse.

In my district in Portland, OR, the police reports indicate that—just since January—18 women have died from injuries inflicted by their husbands or boyfriends. These tragic deaths outnumbered gang-related murders—or turf wars over drugs. This problem is deadly serious.

Because the problem of domestic violence is pervasive, only a coordinated approach which integrates the unique perspectives and assets of these interrelated sectors of society can produce truly effective solutions. Local domestic violence organizations often lack coordination with similar groups in their community, and H.R. 3335 contains a measure to improve and expand existing intervention and prevention strategies through increased communication. The Domestic Violence Community Initiatives Act, H.R. 3335, will promote a coordinated approach to this problem which I believe is the only way to solve it. I am pleased that the committee included a version of H.R. 3335 in the Violence Against Women Act.

This legislation is gravely needed in America. The Violence Against Women Act will allow us to address gender inequities in the law. It will help our communities prevent violence against women. It's time we take this issue seriously and ensure that the law protects women from violence in the house and on the streets.

Ms. ESHOO. Mr. Speaker, as a cosponsor of the Violence Against Women Act, I'm proud to vote for its passage today.

Violence against women is increasing at an alarming rate and affects women in all walks of life.

Every 15 seconds a woman is beaten by her husband or boyfriend and every 6 minutes a women is forcibly raped.

Since 1974, the rate of assaults against women aged 20–24 has increased almost 50 percent.

One out of every four female college students will be sexually attacked before graduating and one in seven will be raped.

African-American women are almost twice as likely to be raped as white women, yet these crimes are less likely to result in prosecution, conviction, and stern sentences.

The murder rate for women aged 65 and older has climbed by 30 percent since 1974,

while the murder rate for men in the same age group has dropped by 6 percent.

Women who have not been victims are plagued by the constant fear of becoming one.

Mr. Speaker, is it fair that half of this country is terrorized by the fact that they are much more likely to be victims of brutality, serious injury and death?

Obviously not. And I believe that much of the violence aimed against women enforces and maintains the disadvantaged status of women as a group.

Mr. Speaker, the Violence Against Women Act is long overdue and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1133, as amended.

The question was taken.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1350

## VACATING DEMAND FOR YEAS AND NAYS ON H.R. 324, JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to vacate the demand for the yeas and nays on the bill (H.R. 324) to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision, as amended.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 324, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title: (S. 1507) "An Act to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 473. An act to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes.

S. 486. An act to reorganize the Federal administrative law judiciary, and for other purposes.

## CONFERENCE REPORT ON H.R. 2330, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, pursuant to the order of the House of Thursday, November 18, 1993, I call up the conference report on the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The Clerk read the title of the bill. The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, November 18, 1993, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, November 18, 1993, at page 30070.)

The SPEAKER pro tempore. The gentleman from Kansas [Mr. GLICKMAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. COMBEST] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to offer special thanks to my ranking member, the gentleman from Texas [Mr. COMBEST]. We have been talking about bipartisanship here, and I must tell my colleagues, in all my years in the House I have never had the privilege to work in such an open, bipartisan spirit as I have with him, and with the other Republican and Democratic members of the committee.

It has been a joy to engage in genuine bipartisanship, not perfect unity on every issue, but for the most part in perfect harmony.

I also want to thank our staffs. We have extraordinary staffs on the Democratic and Republican side. Some of the best I have ever seen here, and they have done a splendid job in getting this bill to the floor on time.

I rise in support of the conference report on H.R. 2330, the fiscal year 1994 intelligence authorization bill. As is customary, the conference report contains both classified and unclassified elements. The funding levels agreed to by the conferees are set forth in a classified schedule of authorizations which is incorporated by reference in the conference report. A classified annex to the joint explanatory statement of the committee of conference provides a detailed description of the schedule of authorizations. I urge Members to take the time to review these classified documents in the offices of the Intelligence Committee.

This conference report is an installment in the committee's ongoing effort to properly size the intelligence community for its post-cold-war mission. Members of the committee are acutely aware of the important role played by intelligence in areas such as supporting military commanders when American forces are in conflict, and furthering U.S. policies designed to halt the proliferation of weapons of mass destruction and counter the efforts of terrorists to influence government policies by violence. They are also aware, however, that an intelligence community of the dimensions of the one which was maintained to counter the threat posed by the Soviet Union is simply not necessary in the post-cold-war world. In August, the committee brought to the floor a bill which made significant reductions in the President's budget request for national intelligence programs. In conference, we reduced the National Foreign Intelligence Budget by approximately $150 million.

Budget cuts can be a blunt instrument with which to affect change. In my view, however, the reductions in the conference report represent a measured approach which will encourage efforts to eliminate activities which are no longer needed, while promoting the development of new technologies and methods of operation which are better suited to the intelligence challenges of the future. In my judgment, the budget reductions contained in the conference report can be absorbed without damaging essential intelligence capabilities. They clearly reflect the committees' intention to continue to prod the community to reduce its size and reorient its activities.

To conduct effective oversight, particularly from a budgetary standpoint, it is important that Congress have a clear understanding of how the intelligence agencies intend to address their priority activities. Two of the legislative provisions in the conference report will particularly contribute to that result. One requires the submission to Congress by the Director of Central Intelligence of an annual unclassified report describing the significant successes and failures of the intelligence community during the preceding year,

and the areas in which emphasis will need to be placed in the year to come. The second provision requires the Director of Central Intelligence and the Secretary of Defense to identify gaps between intelligence needs and intelligence collection capabilities. These reports will provide useful guidance to both the intelligence community and the Congress on how to better align available resources with essential tasks.

Two significant provisions in the Senate bill were not included in the conference report, and I want to make it clear that their omission was without prejudice to their substance. One of these provisions would have required Senate confirmation of the CIA's general counsel.

This provision was pushed very strongly by the Senator from Ohio [Mr. GLENN]. Currently, only the Director of Central Intelligence, the deputy director, and the CIA's inspector general are confirmed. No hearings have been held in the House Intelligence Committee on extending the confirmation requirement to other positions at CIA. At my request, the Senate receded on this item to give us a chance to examine it in detail next year. It may well be that the committee will conclude that additional positions throughout the intelligence community should be subject to confirmation, but that is a judgment that simply cannot be made without a full understanding of the arguments on both sides of the issue.

The second provision concerned the public disclosure of the aggregate intelligence budget figure.

This was an issue that was debated in the House in the amendment offered by the gentleman from Massachusetts [Mr. FRANK]. The Senate bill contained a provision expressing the sense of Congress that the aggregate amount should be disclosed. During the consideration of the authorization measure in the House, an amendment was offered to require disclosure. That amendment was defeated by a substantial margin. In light of the House vote, the House conferees did not believe that even a nonbinding sense-of-Congress resolution on this issue should be a part of the conference report.

I understand that there are strong feelings on both sides of this matter. I personally support disclosure of the budget totals. I do not believe that such disclosure in any way jeopardizes national security or that it would inevitably require the disclosure of the details of the intelligence budget. The committee will hold hearings on this issue early in the next session, and I intend for the judgments we make as a result of those hearings to be reflected in the intelligence authorization bill for fiscal year 1995.

Let me just finally mention something which I think is important. I recognize that when it comes to monitoring intelligence agencies like the CIA, the National Security Agency, and the Defense Intelligence Agency that the Permanent Select Committee on Intelligence is the agent or the trustee for the rest of the Members of the House and the public.

In years past, in the 1970's and, to some extent, in the 1980's the intelligence agencies of this Government often did not operate under the rule of law. That has changed, and it is partly because of the Committees on Intelligence in the other body and the House that it has changed. It will continue to change.

We recognize that notwithstanding efforts to open up the process so that more Members of Congress know what is going on and so that the public knows what is going on in intelligence, we need continued, effective committee oversight and review. In the past year, we have given special attention to the budget issues, how much we spend, special attention to proliferation of weapons, who has got what and who is selling what kind of weapons to whom in the world, special attention to terrorism, where it exists and who is funding it, and special attention to counternarcotics.

The committee intends to continue this oversight.

I would have to say, from a personal perspective, that all of these issues demand continued oversight to make sure the intelligence community is doing its job correctly, spending taxpayer dollars appropriately, and is not creating problems for us that we do not need in terms of trying to make sure that the world is safer and more peaceful.

Mr. Speaker, the conference report embodies difficult choices about the best ways to achieve a balance between the legitimate intelligence needs of policymakers and military commanders and fiscal realities. It deserves the support of the House and I urge that it be adopted.

I want to put the intelligence community on notice that the same kind of oversight which was conducted last year will continue next year. This committee and this Congress will do everything it can to make sure that the dollars being spent on intelligence are being spent correctly, in accordance with law and in accordance with the foreign policy objectives of the United States.

Mr. Speaker, I reserve the balance of my time.

□ 1400

Mr. COMBEST. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I would first like to note that our committee chairman, Mr. GLICKMAN, has continued to lead our committee in a collegial manner, encouraging the honest sharing of views. Despite a wide variety of opinion on some matters on which our Members have felt strongly, he has successfully strived to keep the process open. I should also state that we found the conferees from the other body approached conference with a willingness to make reasonable compromises on several outstanding issues. I enjoy working with him very much.

I do rise in support of this conference report and urge Members to support its passage. Having said that, I and my colleagues from the minority are deeply disturbed by the cuts over and above those which were taken by the committee earlier in the authorization process. I fear these cuts compound the damage which has been done to our intelligence capabilities. Last year our committee made severe cuts totaling 5 percent to the intelligence budget. Even then-Chairman DAVID MCCURDY said the cuts were at "the outer limit," going beyond which would "risk severe damage to the ability of the community to provide intelligence necessary to the policymakers." His words were not heeded and the appropriations process essentially doubled those cuts. I and a great majority on our committee were appalled, yet here again we are making a cut of almost the same proportion.

In my statement supporting the authorization bill on the 3rd of August of this year, I outlined four of the major demands we make of our intelligence community: Preventing or, at the least, slowing the proliferation of weapons of mass destruction, countering terrorism, protecting American economic competitiveness, and supporting our military. I will not again discuss these in detail. I will tell you, however, that the last 3½ months have convinced me even more of the importance of intelligence in helping the President navigate the waters of foreign, diplomatic, economic, and military problems. I will simply say that from the vantage point of my position on the Intelligence Committee I have seen the wreckage that results when policy is made without good intelligence or with little attention paid to it, and I have on more than one occasion seen intelligence help the policymaker change course in the nick of time.

Let no one misunderstand my words. I do not believe that we can avoid some cuts to the intelligence budget. In an ideal world I would like to see the intelligence budget increased, because I know a dollar spent on good intelligence can save thousands spent in other ways—for example, on ill-advised or poorly prepared military actions; on unemployment and other benefits for American citizens whose jobs were literally stolen away by the illegal or unethical dealings of foreign companies or because of poorly negotiated or unenforced trade agreements; or on the

defenses required to protect us because radical, aggressive regimes illegally procure the technologies for weapons of mass destruction. I also think of the lives saved by intelligence—of our soldiers and of our vulnerable overseas travelers, not to mention ordinary U.S. citizens going about their daily lives, commuting and working in structures vulnerable to terrorist attacks.

As I said, in an ideal world I could see increasing the money spent for intelligence to protect us. Yet, realistically, I know we must expect the intelligence community to share in reducing the Federal budget. For that reason, I support the 17½ percent cut of the intelligence work force over 5 years which has already been mandated. I also believe the President's election call for a $7 billion cut in the 1993–97 intelligence budgets was manageable. What we are actually legislating here, though, entails much more serious cuts which will put critical capabilities at far greater risk, and that inevitably involves greater risks to the important national interests these intelligence capabilities protect. I will leave this point by simply observing that I think those of us who have been selected to protect the interests of the American people by providing oversight of the intelligence community may sooner, rather than later, regret the stampede to pick some arbitrary bottom-line amount by which to cut the intelligence budget and then go shopping for specific areas to fill out that cut.

On a more positive note, I am pleased with the progress we have made in conference on refining the concept of the National Security Education Act of 1991. We reduced the trust fund supporting the act from $150 million to $120 million and have directed that it is to operate solely from the interest accrued on the fund's principal. This will help fund more focused programs and selected students in advanced language and area studies at universities. The specific areas of study will be based on an annual assessment of critically important regions and languages. The program is to help ensure our universities' steady production of a pool of young, internationally knowledgeable, and linguistically adept individuals from which the U.S. foreign affairs and security communities will be able to recruit needed new talent. Of course, we intend to continue to closely monitor this program's implementation.

In closing, I reiterate that, although I am concerned at the cuts which have been made to our intelligence programs, I stand in support of this conference report. While it will drastically reduce some intelligence capabilities, it manages to maintain some others, although scaled down. Those who would argue that it is still too much are simply in ignorance of the fact that what the intelligence budget buys our country's leadership is not cheap: Some peace of mind from a bewildering and growing variety of political, economic, and military problems.

Mr. Speaker, I reserve the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from El Paso, TX [Mr. COLEMAN] chairman of the Subcommittee on Legislation.

Mr. COLEMAN. Mr. Speaker, I thank the chairman of the committee for yielding the time.

Mr. Speaker, I rise in support of the conference report on the Intelligence Authorization Act for fiscal year 1994. On balance, we reached a good compromise on the many issues facing the intelligence committees and I urge my colleagues to vote in favor of the agreement.

First, I want to stress that we did not include certain provisions found in the Senate bill for which the House of Representatives, and its interested committees, have not had an adequate opportunity for hearings and consideration. Among these was the provision that would established a statutory General Counsel at the Central Intelligence Agency, nominated by the President and confirmed by the Senate. I, for one, am not all convinced that a Senate-confirmed General Counsel would prevent politicization of the Office of the General Counsel at CIA, or improve the quality of its management, and I firmly believe the current Director of Central Intelligence should have the opportunity to express his views on the issue. The Committee on Intelligence will hold hearings next year, and the matter will be part of the consideration of the intelligence authorization bill for fiscal year 1995.

In addition, the agreement does not include the Senate provision that would have amended the Fair Credit Reporting Act to grant the Federal Bureau of Investigation access to consumer credit records in counterintelligence investigations on the basis of a "national security letter." Expansion of this extraordinary authority raised serious concerns in a number of House committees, on both substantive and procedural grounds, and the Senate receded to provide further time for House consideration of the matter.

On the National Security Education Act, the conferees agreed to reduce the unappropriated balance in the program's trust fund to $120 million and limited authorizations in fiscal year 1995 and 1996 to the amount of interest generated by the trust fund during the previous year. The conferees also required an annual assessment of foreign language and area studies hiring needs from agencies such as Department of Defense, State, and CIA, which will form the basis for the award of scholarships and fellowships under the program.

Finally, the conference report includes the House provision that authorizes retirement annuities, survivors annuities, and access to health insurance benefits for certain ex-spouses of participants in the Central Intelligence Agency Retirement and Disability System. Congresswomen KENNELLY and several groups comprising the spouses and ex-spouses of foreign service and CIA employees have worked hard over several years to get this provision enacted, and they should be congratulated for their efforts.

The measure of a good compromise is that no one is completely satisfied with the end result—and this agreement is no exception. Nevertheless, I urge its passage. It represents months of vigorous oversight by the intelligence committees to ensure funding is well spent and programs are productive. Enactment will set congressional priorities in place for the coming year, and thus I urge a "yes" vote.

Mr. COMBEST. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER]. He and I joined the committee at the same time. I will say that there has been in my awareness a more studious Member, one who has attended more of the hearings, one who has dedicated more of his time, one who has brought more expertise and interest to this committee, and one that I wish his constituents in Nebraska would have had some awareness of the contribution the gentleman from Nebraska has made to this committee and to the protection of this country.

□ 1410

Mr. BEREUTER. Mr. Speaker, I rise in support of the conference report. I want to thank the gentleman from Texas, the distinguished ranking member of the Intelligence authorization committee, for yielding me this time, and to thank him for his very generous comments.

I believe the gentleman from Texas, the ranking member, and the gentleman from Kansas, the chairman, deserve extraordinary expressions of appreciation, compliments, and congratulations for the leadership that they have brought to the Intelligence Committee during the past year, and I do very sincerely extend those compliments to them.

I think they have expanded on the tradition of ensuring bipartisan sharing of information and effort as we conducted oversight and authorization activities for the intelligence community. It has been an outstanding effort on their part.

Mr. Speaker, this Member shares and would like to echo the budgetary comments by the gentleman from Texas [Mr. COMBEST]. At the beginning of the year, the Member request time formally registered serious concerns regarding the proposed reductions in the Intelligence budget. While I compliment the distinguished gentleman

from Kansas [Mr. GLICKMAN] for his fair- and even-handed management of the committee, particularly with regard to program and budget issues, I feel that we cut the Intelligence Community budget authorizations too deeply. Only time will tell whether this Member's concerns are well-taken, but clearly the world in which we live is one where American's and, therefore, Congress, can ill afford to take chances with our national security. Our intelligence agencies are our first line of defense, the eyes and ears that find those smoldering issues and circumstances abroad that can quickly ignite into a major conflagration. In the coming year we will carefully watch how the intelligence community fares in the severely reduced budgetary environment in which it now must exist.

I must compliment the chairman, however, for his willingness to review and his supportive leadership on some budgetary issues late in this legislative season. In particular, one where enormous intelligence and foreign policy equities were at risk. At this point I must speak in generalities to protect classified material, but I can say and wish to note that the chairman, Mr. COMBEST and our colleagues joined me in the conference in insisting on our position, and as a result we have been able to save an opportunity to continue two small but very significant intelligence programs which also have very crucial foreign policy implications? On some other interrelated but distinct programs of tremendous intelligence potential, we—the House authorization conferees—have done what we can to limit the disruption, which will result from a hasty and probably ill-considered program consolidation suggested in classified portions of the appropriations act. Our action would encourage the intelligence community to determine carefully the optimal management structure for those programs as well as reaffirm the authorizing committees' legislative responsibilities. This Member still has great concerns about the direction of the Defense Appropriations Act on this classified subject, but I was not able to reverse their apparent direction.

Finally, I would like to offer a few comments on the recently authorized National Security Education Act, NSEA. At the time of passage 2 years ago, this and many other Members had grave doubts about the program. During our recent conference, I noted that if we were going to proceed with the program, which the previous Congress had authorized—if we are going to proceed with the program, we ought to impose necessary fiscal and programmatic restraints on NSEA in order to give us the very best product possible. One of those restrictions imposed limits expenditures solely to the interest earned on the principal of the trust fund. I am pleased to report that the conferees agreed to this limitation.

The conferees also agreed that the NSEA program shall only provide scholarships and fellowships in areas where there is a shortage of personnel with more esoteric language and area studies skills. The shortages will be determined based on an annual language assessment of future needs to be prepared by the Department of Defense from inputs from Federal agencies including the CIA that will employ the NSEA fellows. This annual language area studies assessment will be critical to determining new educational assistance for NSEA.

Our actions have tightened up this program significantly, and it will provide a direct benefit to the intelligence and foreign affairs community. As such, I believe that we have at least modified and directed a fledgling program in a manner that will better meet the needs of the Federal agencies which will be hiring these individuals. At the same time, providing educational opportunities to American students that are more likely to meet the actual needs of our intelligence and national security agencies.

Mr. Speaker, I would like now to engage in a brief colloquy with the ranking member of the committee related to the NSEA. I have a few brief points for him to consider, and I would ask his comments at the completion of this statement.

First, the Republican Members, it is my understanding, will continue to exercise full oversight over NSEA to ensure it is executed in accordance with the changes mandated by the conferees and hope to have the cooperation of our majority counterparts in that effort. Second, the chairman, Mr. GLICKMAN, at the conference stated a view, which you and I share, that the committee understands that future annual authorization actions are an essential element in effective oversight. And, third, over the next year, we the Republican minority would work to ensure that the HPSCI will hold hearings on NSEA to determine how the program is proceeding, in particular since this year will mark the award of the first scholarships and fellowships.

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the gentleman from Texas for any comment he may want to make.

Mr. COMBEST. Mr. Speaker, I say to the gentleman from Nebraska that I totally concur with his comments, and strongly support them, and as the gentleman will recall, our committee had basically ended the program, but in conference, as one does in many instances in an ability to reach a position in which we could move forward with the bill, which was important to the community, did make some agreement with the Senate that the program would continue but, as the gentleman has indicated, at a significantly changed and scaled-down version, and certainly limiting only the expenditure for the program to the amount of the interest on the trust fund which was established in last year's moneys out of intelligence. Because of that, I have always felt very strongly that the Intelligence Committee should be the oversight committee of that program as long as those funds actually came from the intelligence community, which they did, and, in fact, the intelligence community should benefit from them which we have established under this, but I would strongly concur with the statement of the gentleman from Nebraska and will do everything I possibly can to make certain those concerns he has are carried out in our committee as long as I am the ranking member.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Texas for that assurance, which I would have expected since he has been so active in this area. I thought it might be helpful to have it on the record.

I made a characterization of the chairman's view, and if it is inaccurate, please, correct me.

Mr. Speaker, I want to add a positive note on the NSEA. It would be worthwhile to highlight the very effective management that is being exercised by the new office director, Charlene King. NSEA was going nowhere until she was appointed in April, and now it appears to be tightly run and very responsive to meeting intelligence community personnel and area study requirements.

Mr. Speaker, in conclusion, I want to reiterate my thanks to the Chairman and the ranking Member for all of their support and courtesy throughout the Conference and earlier during committee markup on matters of interest to me. Without that assistance and attitude we could not have made the significant modifications to the House-passed bill and during the Conference. For that, I am grateful.

Mr. Speaker, moving to another point, if the gentleman from El Paso is in the room. Nevertheless, it might be good to put some comments on the RECORD since he brought up the discussion about the FBI and the possible amendments to the Fair Credit Reporting Act.

Yesterday, this gentleman, a member of the Consumer Affairs Subcommittee of the Committee on Banking, Finance and Urban Affairs, during a markup of a bill amending the Fair Credit Reporting Act authorization legislation, noted to members of that subcommittee that the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], and the chairman of the subcommittee, the gentleman from Massachusetts [Mr. KENNEDY], had asked that the Intelligence Committee, in a letter to Chairman GLICKMAN, not proceed with amendments to the FCRA

or accept Senate language to amend the FCRA, since it was in the Banking Committee jurisdiction. And appropriately, of course, the HPSCI responded in acknowledging it was in the Banking Committee jurisdiction. We also received shortly thereafter a letter from the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], indicating that he would look to hearings and actions of the Committee on Banking, Finance and Urban Affairs on the issue of possible FBI-related amendments to the FCRA.

I referenced the Senate Intelligence Committee bill's relevant provisions on the FCRA yesterday for members of the House Banking Subcommittee to consider. I would say to my colleagues since there have been contacts from the FBI on several occasions with the House minority and majority staff of the Committee on Banking, Finance and Urban Affairs, we may yet have an opportunity to weigh in, in support of FBI-related amendments to the FCRA either during the FCRA markup of the full Committee on Banking, Finance and Urban Affairs or on the House floor on such legislation.

This member wanted to alert members there is a possibility yet for action in the next session of the 103d Congress on this front. So I would particularly invite future comments from the chairman of the Legislative Subcommittee, the gentleman from Texas [Mr. COLEMAN] on this subject.

As a final note, I want to mention that I think that the committee is extraordinarily well served by continuing to have what I consider to be the best staff to assist us that exists in the House of Representatives.

□ 1420

The majority and minority of HPSCI is, without exception, as outstanding a staff that has been assembled in the House. It continues the tradition of being the best staff effort in the House of Representatives.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. David Kalbaugh, one of his secretaries.

## CONFERENCE REPORT ON H.R. 2330 INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I thank the gentleman for yielding this time to me.

As the House is well aware, this committee undertakes some extremely serious responsibilities in its work; in particular it acts as a surrogate for the general membership of the House in overseeing the intelligence community of the United States and the very sensitive work that it carries out.

I have been extremely impressed as a new member of the committee with the degree of professionalism and excellence that I think both the membership brings to this task and, as the gentleman from Nebraska [Mr. BEREUTER] just expressed, I wanted to express my great respect for the quality of the work that our staff does. I have not experienced anything in my time in this body that really matches the quality of work and professionalism of our staff.

This committee, more than any other in this body, deals with matters in secret. As we have responsibility because of that to keep those things secret which ought to be kept secret, I think we also carry a responsibility to examine the process and practices of the community so that matters which need not and ought not be kept secret are not.

So I want to express my thanks to my colleagues on the committee for undertaking in this bill to direct the intelligence community to begin a very thoroughgoing review of both the costs in monetary terms and in practical terms of the classification procedures of the U.S. Government. This will serve to push forward, I hope at a good and considered pace, the efforts that the administration has already started to review and reform the classification procedures of the Government.

It is important for a democracy that as much information as we possibly can have in the public domain about the operations of Government be there, and we are making an important step in that direction with this bill.

Mr. Speaker, memos on the movement of U.S. troops in Europe from 1917; 23,500 pages of documents dating from before World War II; documents concerning POW/MIA's in the Korean war—do these sound like secret documents that need to be kept under lock and key? They don't to me or to most sensible people, but these are among the millions of Government papers that are needlessly withheld from the public domain because of an outdated and burdensome system of classifying Government information.

Today, with the approval of the intelligence authorization bill, we begin to turn the tide on this sea of top secret paper. As a member of both the Permanent Select Committee on Intelligence and the Appropriations Committee, I've initiated a Government-wide cost accounting and expenditure-reduction effort involving all agencies that make up the intelligence community or are affected by classification rules and procedures.

Provisions I authored for the intelligence bill and all relevant fiscal year 1994 appropriations laws—Commerce, Justice, State and the Judiciary; Energy and Water; Treasury-Postal—require reports by next March detailing the cost and number of personnel involved in classifying and maintaining Government secrets. It also requires the agencies to come up with suggestions about how to cut spending on classification and secrecy for 1995. I decided to take this approach after finding out the agencies that deal with classified material couldn't even tell me roughly how much they are spending on document classification.

The problem is that despite sweeping changes in the international arena, the classification bureaucracy is stuck on autopilot, stamping top secret on nearly 7 million new documents each year. Ninety-five percent of these papers will be marked for indefinite restriction.

Over the years, this has led to the buildup of tens of millions of secret documents, some truly sensitive, some not. Remaining under wraps, for instance, is the radar equation, a standard law of physics that has been in textbooks since the 1940's as well as some 6,000 U.S. inventions, some dating from the 1940's, whose authors are forbidden to publish, patent, or even discuss their work.

The tremendous cost—borne by the U.S. taxpayer—for the personnel, processing and storage needed to handle all these classified documents is daunting enough. But we also need to consider that private American companies spend at least $14 billion a year to meet increasingly complex, overlapping, and sometimes contradictory controls on classified information.

While the dollar cost of overclassification is staggering, an even heavier price is levied on a Democratic, free society. The excessive classification under the current system diminishes open Government, individual liberty, and access to Government information that's essential to an informal electorate.

The great irony is that overclassification has not necessarily bought us better security. Excessive—often arbitrary—classification has led to an ossified secrecy system that is often unable to cope with the rapidly changing circumstances of the post cold-war world. Overdoing classification ultimately does a poor job of protecting legitimate national security information. When classified information becomes commonplace, it devalues the currency of the more important secrets; carelessness sets in and accountability declines.

The cost-accounting and expenditure reduction effort I've initiated is the first step in addressing these problems. Requiring reports detailing the cost and number of personnel involved in classifying information, and keeping information classified, will ensure that over classification is no longer simply built in to agency budgets. Agencies will have to address this problem explicitly and set cost-cutting goals for handling classified information in 1995.

The reports, due on March 31, 1994, will knock the system off autopilot. I'm hoping that by this time next year I'll be able to tell you about historic changes in the way information is handled by the national security community and about the savings the agencies plan to achieve.

The post-cold-war era presents both new threats and new opportunities. The intelligence and national security community, traditionally somewhat resistant to change in procedures, needs to adapt to the new international environment. Reforming classification policies and practices is a key place to prove that it can.

The Government doesn't often have the chance to cut costs and improve operations.

By reining in unnecessary classification, we can do both, all the while enhancing, not shorting, our real security objectives.

Mr. GLICKMAN. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I too, as the gentleman from Colorado [Mr. SKAGGS], am a new member of this committee. I would also like to compliment both sides, Republicans and Democrats, on the committee because we certainly worked in a bipartisan way to find a solution to the budgetary problems facing the Government and, in particular, the intelligence communities.

I think that Members who are watching in their offices or here on the floor should remember that from the President's request we cut over 5 percent before we brought it to the floor. On top of that, as the chairman and ranking minority member have stated, the conference has again cut it over $150 million. We have cut programs that are desirable, but we had to make choices to protect the intelligence-gathering ability of our security agencies at the same time that we had to make sure we came within the budgetary restraints as we felt were necessary in today's economy.

I feel this conference did a good job. We worked together.

One thing we were impressed with is the fact that the members were there. I serve on a number of committees. Many of us know that sometimes those committees sit with two or three Members. We had a vast amount of Members at every single meeting, and of course at every markup. That says a lot to the fact that maybe in full committee we should not have proxy voting. We do not have it in the Intelligence Committee, and it has worked very effectively.

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the chairman for yielding this time to me, and I commend him, the gentleman from Kansas [Mr. GLICKMAN], and the ranking member, the gentleman from Texas [Mr. COMBEST], for their leadership in forging this bipartisan legislation and guiding us through the conference with the Senate.

Mr. Speaker, I support the legislation, but I do want to say that as one who went to the committee to advocate more openness and streamlining of the budget as well as the declassification of documents, I see progress on the committee.

I am, however, disappointed that we are not able to go along with the Senate sense of the Congress that the total budget figure be made public. I am confident that the chairman of our committee, the gentleman from Kansas [Mr. GLICKMAN], will hold hearings next year about requiring the release of that figure. I commend him for that effort.

I think in the long run we will end up with a better product, with more openness in the intelligence process, and more confidence from the American people.

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY], who was a distinguished member of this committee for 6 years, I believe.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 2330, the intelligence authorization conference report.

I particularly want to again thank Mr. GLICKMAN and Mr. COMBEST, the chairman and ranking minority member of the full Intelligence Committee, and Mr. COLEMAN and Mr. GEKAS, the chairman and ranking minority member of the Subcommittee on Legislation for their assistance on providing survivor annuities, retirement annuities, and access to health insurance for certain ex-spouses of the Central Intelligence Agency retirement and disability system [CIARDS].

Throughout the 1980's Congress enacted legislation to provide greater retirement equity for the spouses of Federal Government employees. The CIA Spouses' Retirement Equity Act of 1982 provided that qualified former spouses of CIA officers would presumptively receive upon divorce a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of agency services prior to divorce. The qualified former spouses would also be awarded a similar share of the officer's survivorship benefits. These presumptive amounts could be adjusted by court order or spousal agreement.

This right, which is substantially the same as that provided to similarly situated former spouses of Foreign Service officers, has been extremely important for the financial security of older women facing divorce from clandestine officers of the CIA. We are all now well aware of how difficult it has been for women to secure an equitable divorce, and the financial deprivation that usually results. These difficulties were compounded for CIA spouses who were unable to reveal in open court basic details about their personal circumstances.

Under the 1982 law, unfortunately, in order to qualify as a CIA former spouse, and individual not only had to have been married to a CIA employee during at least 10 years of creditable service, but 5 years had to have been spent outside the United States by both marriage partners.

The Subcommittee on Legislation of the Permanent Select Committee on Intelligence, which I chaired in the last Congress, became aware that the 5-year overseas rule for the spouse disqualified from retirement and survivorship benefits many former spouses whose sacrifices for family and country had been as great as those of the former spouses who met the requirements of the rule. These women also provided great support to their husbands and to the Agency by maintaining cover, accepting frequent transfers, and participating in service-related activities. They bore all family responsibilities stateside alone while the officer served overseas, and agreed to the extra demands on family income of maintaining two households. Like other CIA spouses, they found employment opportunities, when not precluded by the nature of the officer's work, to be very limited, and they too experienced the stress of living with secrecy and the fear for the physical safety of their partners. The subcommittee found that these women were in some cases prevented from meeting the 5-year overseas rule by days because they were not allowed by the Agency to accompany the officers to war zone assignments or because they needed to bring a sick child back to the United States for medical care.

Congress in 1991 repealed the 5-year overseas qualifying rule for former spouses divorced after December 4, 1991. Section 203 addresses the plight of a relatively small number of individuals divorced before the repeal. It enables them to receive on a prospective basis retirement and survivor benefits equivalent to the amount they would have been presumptively awarded, provided they meet the other former spouse requirements. In addition, these individuals and those ex-spouses now receiving Federal insurance benefits will be allowed to receive Federal health insurance benefits in the future on the same terms available to other CIA former spouses.

Mr. Speaker, the tales of some of the women who will benefit from this legislation have been shared with the Subcommittee on Legislation, and they are heartrending. We are talking about people who were—and are—every bit as dedicated to the highest ideals of the Central Intelligence Agency as anyone employed there, but who have paid great costs financially and emotionally for their service.

Again, on behalf of the individuals who will benefit from this legislation, I thank the committee for its efforts.

Mr. COMBEST. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], a member of the committee.

Mr. GEKAS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report. As we near the end of the first year of the 103d Congress, I believe the American people can feel secure that the work and duty of their Intelligence Committee and the intelligence community at large has served the American public well. We have made some painful steps, and we have taken some gainful steps as well.

The painful steps, of course, are in the realm of retraction of resources

and funding where we, many of us, feel might in the long run hurt our general capacity for intelligence. But we will work together to try to make sure that each dollar is spent wisely and prudently.

The gainful steps, of course, were made in the allusions already presented by the chairman of the committee and the ranking member. I join in the applause for those gainful steps.

To the gentleman from Texas [Mr. COLEMAN], I say I am eager to work with him even further in consolidation of some of the issues that have arisen during this first year and to do what we can to enhance the capacity of the intelligence community.

So, in closing, I endorse everything that has been said, commend the staff, commend our colleagues on the committee, and say to our people, "Sleep well, America; we are on top of things in the intelligence community."

Mr. GLICKMAN. Mr. Speaker, I yield 2½ minutes to my distinguished colleague, the gentleman from Washington State [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I thank the chairman for yielding this time to me, and I commend him, Congressman DAN GLICKMAN of Kansas, and the ranking member, the gentleman from Texas [Mr. COMBEST]. I am very pleased the committee operated this year on a very solid bipartisan basis. I also commend the staff of the committee.

Mr. Speaker, I have served in this Congress for 9 terms, I think the staff of this Intelligence Committee is one of our very best. I have enjoyed this year particularly, being one of four members from the Defense Appropriations Subcommittee, to work with the Intelligence Committee, as a member of the Intelligence Committee, to try to coordinate issues that in the past have caused us some difficulty.

□ 1430

The one issue that sounds very, very trite is that sometimes we would appropriate money that was not authorized.

I know the chairman was very concerned about that. Last year it totaled nearly half-a-billion dollars. This year we were able to reduce that dramatically. It was one of the priorities of the gentleman from Kansas [Mr. GLICKMAN] that we do that, and the gentleman from Pennsylvania [Mr. MURTHA], the chairman of the Defense Subcommittee wanted it done. We were able by coordinating the staff members to make real progress in that area.

I also want to say that the new Director of the Central Intelligence Agency, Mr. Woolsey, has worked effectively with our committee. He had some very strong views on a number of issues, but he was willing to work with the committee.

I think overall we have developed a new architecture for our intelligence gathering capabilities that will serve the country well into the future.

We still have some issues that are going to have to be resolved in the years ahead, but I want to commend the chairman and the members of the committee for the good work that has been done.

I also want to make sure that everybody realizes that we cannot get into numbers here, but we have cut this budget again for the second year in a row very, very dramatically, much more than I think most Members recognize.

I know there were a number of amendments on the floor about cutting back on Intelligence, but I want everyone here to know, we are bringing down the Intelligence budget, and I think we are doing it in a way that is thoughtful, constructive and that will still allow us to have good human intelligence and the ability to modernize our satellite capability. So we listened to the House. We listened to the American people. I think we are moving ahead and I look forward again to working in the second session with the chairman and the ranking member and the members of the staff to see if we cannot even do better than we did this year.

Mr. Speaker, I certainly urge the House to support this bill.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Speaker, I want to express my support for the conference report and compliment the committee for its work.

Mr. COMBEST. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, there are a lot of congratulations going back and forth about the fine work done by this committee, and I would like to add my voice to that.

But there is something that strikes me as very important and that we may be overlooking here today, and that has to do with the oath of secrecy requirement that was left out of the conference report.

Mr. Speaker, every right carries with it responsibilities. Members of Congress, by virtue of their offices, are often privy to the Nation's most sensitive information if they want it—information that, if leaked, could have far-reaching implications. When bona fide classified information is compromised, national security is jeopardized; our ability to gather timely and accurate intelligence is crippled as a result, and the members of our intelligence services, who put themselves at risk to ensure that decisionmakers in the executive branch have the information they need, are further endangered. I call attention to this aspect of the intelligence authorization because it could easily be overlooked in the closing rush of legislation that is so common at the end of a session.

As my colleagues know, the intelligence authorization has emerged out of conference and onto the floor for consideration today. We have been debating it, but as I said, it comes back to the House without this oath of secrecy agreement. That amendment addresses the recurrent problem of willful and irresponsible disclosure of classified information by Members of Congress.

Now let us review the facts. On August 4, 341 Members of this body voted to add an amendment to the authorization to require that members who received classified information from the executive branch sign an oath of secrecy. If they are uncomfortable, they do not have to have the information.

Subsequently, a substitute passed with the strong support of the majority, and that is the measure that went forward in the conference.

I am going to withhold any objection to the conference report, because this is too important for our Nation. I agree there are questions about cutting too much. I agree with the questions about the proper classifications. I think work does need to be done there.

But I want to say that damaging leaks still happen. There is a need for this oath of security.

Witness the stories about Haiti. Sadly enough, it is another embarrassing, possibly dangerous and damaging revelation to our Intelligence gathering effort in a country that has been in the headlines. It is a very sad thing.

The amendment that we sent forth to the Senate included Senators. The Senate has their own rules, as everybody knows. I believe it is Senate rule 28.

People in the executive branch have the National Security Act. Only Members of Congress who are not on the Intelligence Committee in the House have no accountability when it comes to receiving classified information. It is a strange loophole we have, and that is what we are trying to close up. It is not a big deal to do. The majority has said we should do it, and the fact it has been dropped from conference, it seems to me that it will not necessarily go away.

I say that because I am now quoting from the New York Times from the 1st of November of this year. It says, and I will not name the specific Member, although he is named in the article, that a specific Member of the House Intelligence Committee and another committee, who confirmed that payments were made. This is speaking about CIA payments to specific people in a specific country where there are national security interests, and men and women in uniform potentially in the area of getting shot.

Now, that is just a circumstance where frankly we avoided a tragedy more by good luck than anything else,

I suspect, than by policy; but the fact is that this is not the type of thing that a Member, whether he or she is on the Intelligence Committee or not, should be confirming to a newspaper. This is not business if it is classified, and this was classified. That is what I am trying to get at.

As I said, I do not think anybody likes to see the types of political cartoons that we saw in the Christian Science Monitor today that add ridicule to the efforts of the executive branch Agency that is responsible for gathering and analyzing out intelligence. It does not help. It does not help the credibility of Government, and frankly, most of this came from leaks, and we all know it.

I am sorry to say that the leaks may have come from Members of this body and Members of the other body, and if that is the case, we need to do something about it. The oath of secrecy is not particularly a harsh remedy. I just think it is a common sense one, because it gives us a chance to be accountable for our actions.

Could there be anything wrong with that?

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. GOSS. Surely, I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I want to say to the gentleman that I appreciate very much the fact that he has been such a strong supporter of this. No one can take a seat in front of the gentleman in an effort to move this legislation.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The time of the gentleman from Florida has expired.

Mr. COMBEST. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida [Mr. GOSS].

Mr. Speaker, will the gentleman yield further?

Mr. GOSS. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, they worked closely in the past on this regard. There is no one also who is more concerned about the potential and about the leaks that have occurred than I am.

I do not want the gentleman to think at all from the fact that the provision did not remain in the bill that this Member feels any less strongly about it. In fact, I think that part of it is as strongly needed as many parts of the bill.

In an effort to be able to get a bill and get it to the committee where we can get adequate funding for it this year, there was a strong objection by the conferees.

But I would say to the gentleman that I will be glad to work with him in any way that I can to try to make certain that this is something that moves forward, because as the gentleman has indicated, this House spoke very strongly in support of an oath of secrecy in a vote which we have during the authorization of this bill originally.

Mr. Speaker, I commend the gentleman, and I want him to know that I will do everything possible to work with him to try to make this something in the future which in fact does become a requirement that every Member who handles classified information in the House of Representatives has to take in advance.

Mr. GOSS. Mr. Speaker, I am grateful for those assurances.

Mr. GLICKMAN. Mr. Speaker, I yield myself 1 minute.

First of all, Mr. Speaker, I want to note for the gentleman from Florida that I take very seriously the safeguarding of classified information. I periodically remind committee members, as does the gentleman from Texas [Mr. COMBEST], of the requirements of the House and the committee rules which prohibit the unauthorized disclosure of classified information.

The record of the committee on not disclosing secrets has been excellent, far superior to the executive branch.

I would also point out for the gentleman's benefit that I made an inquiry about the article the gentleman talked about in the New York Times. The committee member in question has assured me that he did not disclose any classified information.

I accept the gentleman's concern about this particular issue and I will continue to remind Members of their serious obligations to keep classified information secret.

What I want to avoid is the adoption of any procedure which would single out Members of the House for special treatment when the question of secrecy arises.

The gentleman is not totally correct.

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. GLICKMAN. Mr. Speaker, I yield myself 1 additional minute.

□ 1440

The executive branch is really not subject to any other set of rules than we are. We are both subject to the espionage statutes, which, of course, we take seriously, so they are not subject to any other particular rules, the general executive branch that are not subject to us, except people in the intelligence agencies of course. But any restrictions on access to classified information which go beyond those applicable to the Permanent Select Committee on Intelligence should play equally to the Senate, House and executive branch. That was the purpose of my amendment to the gentleman's amendment. Unfortunately, the Senate conferees would not accept that amendment.

But I do think that we need to make sure that we honor the secrecy of the information, and our committee does, in fact, do that, and I want to assure the gentleman that we will continue to monitor the situation.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Kansas [Mr. GLICKMAN] for yielding.

I think there are two points I would like to make. First of all, every member of the Permanent Select Committee on Intelligence in the executive branch does have to sign a secrecy oath. One cannot get employment in that area. That does not mean that all members. I agree with the gentleman that that may be an area where the gentleman's committee ought to look, and I would be very happy to support that.

The second thing that I think is worth noting is I do not believe that we would have been reading the flap about the CIA and Haiti had it not been for that briefing and the fact there was a leak from that briefing. I am drawing no conclusion, but that was a briefing of Members of Congress on either side, and the flap started shortly thereafter. I think a reasonable person would make the conclusion that there was a leak.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Speaker, as a new member of the committee I rise in strong support of this conference report. It is a bipartisan report. I congratulate the leadership on both sides of this committee.

Mr. COMBEST. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I rise in reluctant support today of the intelligence authorization bill, and I say "reluctantly" only for one reason, not because of what it accomplishes; I agree with that, but what it does not accomplish.

Originally, as the chairman and the ranking member know, I have offered an amendment to this bill which would establish a national task force on terrorism which would force this Government to prioritize and coordinate matters relating to counterterrorism in intelligence gathering, dissemination, and operations. This does not occur today, at least not in any effective form. I do want to thank the chairman and the ranking member for their support in this effort that I made, however, but what we get today, rather than that type of structured legislative product that I had hoped we would get, is a version of a committee report and a little bit of the bill that does state that the relevant agencies must give us the status report in about 6 months on

the nature of our counterterrorism activities. But there is no mandated followup.

What concerns me and many other Members is a growing perception that, while lipservice is paid to fighting terrorism by the administration, no serious effort has been taken to fully assess and define the threat and develop the policies and resources to fight that threat. Staff of the Task Force on Terrorism that I head has spent many hours briefing local law enforcement agencies in New York and California on the nature and threat of terrorist organizations. Time after time they are told that they receive no such help from the Federal Government.

We need a comprehensive policy on counterterrorism. We do not get a start with that with this bill. What we do get, at least, is an urging of a report, and that is the extent of it.

Putting bureaucratic prerogatives before the lives of people who have suffered in the World Trade Center bombing or Pan Am 103 is incomprehensible to me. The Iranian Hezbollah is in Somalia and was involved in the death of Rangers of our United States Armed Forces. When is enough enough, and how many have to die before we get those policies we really need? Why must we legislate this? And frankly the simple answer to that is: because the administration so far has not addressed this problem adequately.

Mr Speaker, at this point I insert in the RECORD a copy of the speech of Dr. Yigal Carmon, the former counterterrorism adviser to Israel Prime Minister Shamir. This speech might alert a few people to why we really do need to address the seriousness of this problem:

CURRENT MIDEAST TERRORISM: THREATS AND RESPONSES

(By Dr. Yigal Carmon)

The current wave of MidEast terrorism differs from those of the 70s and 80s in that at its core lies militant Islam. This new characteristic does not belittle the role of state sponsorship, which has dominated MidEast terrorism for decades and still does. But militant Islam, now supported by states in the region, has given terrorism a new potency.

Militant Islam has four principal characteristics.

A. Unlike in the past, when Middle Eastern terrorists struck from their home bases, Militant Islamic movements today maintain expanding infrastructures in the growing Muslim immigrant communities in the West.

B. Militant Islam targets Western civilization in its entirety, as a concept and a system.

C. Religious fanaticism, guided as it is by the Deity, brings terrorist activity to new dimensions, allowing even for mass killing. Had the World Trade Center collapsed, it probably would have been the worst disaster in the last 50 years.

D. Religious terrorism cannot be placated or accommodated.

These elements made militant Islam increasingly the most alarming threat to the West today. Confrontation, therefore, sooner or later, may be unavoidable.

On February 26 of this year, at a meeting with my colleagues at SOLIC (DOD), I asserted that militant Islam poses an imminent threat to the United States. It was only a few hours later that the World Trade Center bombing took place.

The West is not prepared to meet this threat. Modern democracies are unwilling to engage in the type of religious conflict that characterized previous ages. Nor should they.

Observing militant Islam in faraway Afghanistan or in the Middle East, citizens of democracies do recognize the role of religion in the conflict. But when they view the same phenomenon within their own society—bound by western-democratic values and morals, as well as by their legal principles—they fail to understand the crux of the problem: Any religion, when abused by fundamentalists, may serve not only as a source but also as an organizational framework for violence and aggression in the name of God. This was the case with the aberrant Jewish militant group that engaged in violence in the territories in the early-'80s, and with the Branch-Davidian Christian fundamentalist cult. It is also the case with the more popular militant Islamic movements.

This failure to perceive correctly the nature of the conflict stems from the Western tendency to apply a Judeo-Christian frame of reference to Islam—a faulty application. Christianity and Judaism, in their history, have undergone reformation, separating church from state and giving up the use of violence in the name of God. Islam, by contrast, has not yet undergone the same evolution. In Islam there is no separation between church and state, between the realms of the sacred and the secular, between religion and politics. Rather, all of these are one and the same. Which means in practice that the militant Islamic cleric is also a military and political leader, and that his mosque may serve as a venue for his activities.

This grim reality, coupled with the expected cuts in the defense budgets of Western democracies, makes the problem even more acute and underlines the vital need for an appropriate and effective strategy.

This is a sensitive topic to discuss. Concern about militant Islam may be misunderstood or abused by bigots as an attack on religion as such, or as a danger to religious freedom and civil liberties.

Nevertheless, we face a real problem, which threatens human lives and institutions of society. Militant Islam inside the West is new to democratic societies. Western history, in recent centuries, offers us no direct guidance to deal with it.

Let it thus be clear that the concerns expressed in this paper are meant to reaffirm Western democratic values, particularly with respect to religious freedom and civil liberties. My purpose is protect these freedoms from those who would seek to undermine them.

THE NATURE OF THE THREAT

The rise of militant Islam in the last decade stems from two coinciding phenomena, one socioeconomic and the other demographic.

The first is a marked decline in the economies of Middle Eastern states, which has led to a major crisis of survival, especially among younger people.

The second is a marked rise in the number of Muslim immigrants from the Middle East, North Africa, and Asia, to the West. These immigrant communities, their economic success notwithstanding, have maintained many characteristics of their cultural background, which in many instances conflict directly with those of the Western society in which they live.

Against a backdrop of growing discontent among the masses, nostalgia for the Arab-Muslim grandeur of the past, and the momentum created by the Islamic takeover in Iran, Muslim fundamentalist leaders tried to foster the vision of an Islamic state that would rectify the people's grievances and also assuage their anger.

Prof. Martin Kramer, in his article "Islam vs. Democracy" (Commentary, January 1993), writes, "While regimes fumbled for solutions, the fundamentalists persuaded the growing numbers of the poor, young, and credulous that if they only returned to believe and implemented God's law, the fog of misery surrounding them would lift."

Prof. Bernard Lewis, in his landmark article, "The Roots of Muslim Rage" (Atlantic Monthly, September 1990), contends that Islamic fundamentalism has given a shape and objective to the otherwise undirected resentment and anger of the masses in the Middle East, following events which have devalued their traditional values and robbed them of their beliefs, their aspirations, and their dignity.

Afghanistan became the focal point of pan-Islamic "Jihad," much in the way that Spain during its civil war became the focal point for international communism.

But the response of the masses to the call of Islam did not alleviate their pain and frustration. Instead, it only intensified them. The leaders, unable to provide solutions to the very basic grievances and problems of daily living, used the religious fervor that was stirred up as a catalyst for radicalization and increased militancy.

Growing Muslim communities in Western countries have fared no better. Despite their relative economic success and improved lifestyles, the freedom and pluralism of the West has offered little comfort to these people. Rather, it has served to heighten their frustration. And here lies the core of the problem of militant Islam.

The fundamental tenets of Islamic theology demand confrontation with any non-Muslim or secular system until Islam supersedes it. Therefore, the more devout a Muslim living under a non-Muslim or secular regime becomes, the sharper the inner conflict he feels at being unable to change what is required of him by his creed.

The example of Christianity can help us understand this inner conflict in Islam:

Modern Christianity, for most of its adherents (and clearly there are exceptions), is primarily a religion of faith. Christians accept a set of general moral beliefs that do not dictate every aspect of their daily lives. Christians recognize the wider, secular nature of their collective existence and acknowledge the preeminence of secular authority.

Islam, by contrast, is primarily a religion of precepts and acts. There is a religious obligation for almost every act and almost every minute in the life of a believer—on both the individual and community levels. All his acts are meant to be conducted according to the same set of rules—the Islamic law, the Shari'ah.

The fundamental theology of Islam divides the world into two domains—"The Domain of Islam", where the law of Allah prevails, and "The Domain of War," where heresy prevails; and it is the duty of the believer to turn the "Domain of War" into the "Domain of Islam" through unyielding Jihad.

This is why militant Islam is inherently at odds with both the secular regimes in Arab countries and the multicultural Western states. Coexistence with any of these entails

unacceptable, if not blasphemous, compromises.

What I present to you is not a theoretical exercise in comparative religion. Islamic fundamentalism has evoked a potential explosion in the hearts and minds of devout Muslims in non-Islamic countries and under secular Arab rule. They find themselves in a state of intense clash between their religious duties, norms, and values and the realities of their existence—a state described by psychologists as Cognitive Dissonance.

The psychological stress induced by the conflict leaves devout Muslims with three options:

A. They may endure what they regard as an imperfect and shameful situation, seeking escape by distancing themselves from religious life or by inventing a religious rationale to accommodate reality. This is the reaction of the overwhelming majority of Muslims today; or

B. They may deny the painful reality, as far as possible, by withdrawing into the limited confines of religious life (much in the way of Muhammad in his "Hijrah"—in the ancient history of Islam—when he was unable to overcome the powerful establishment of Mecca). Unfortunately, this path does not end in Hijrah. More often it leads to a regrouping of forces, a weeding out of the ranks, and ultimately, a more determined return to the struggle.

This path was taken, for example, by the Egyptian militant Islamic group called the "Jama'at al-Hijrah wa al-Takfir", which was responsible for the assassination of the late Anwar al-Sadat in October 1981; or

C. They may choose the path of permanent struggle against the secular/non-Muslim order, despite its overwhelming power. This pattern of reaction is reflected in the violent activities of the militant Islamic movements.

I wish to stress once more: the large majority of Muslims in the West are not militants. A small minority, however, is. And although this minority lives in an open, free and democratic society and enjoys its benefits, these Muslims nevertheless feel that they are under attack. Unjustified as these feelings are, we must not underestimate the strong motivations they create.

The World Trade Center bombing was no accident. Rather, it was a deliberate act of extreme violence, motivated by an ideology rooted in a dangerous social, religious, and political reality of which the American public is not sufficiently aware or cognizant.

Why is the public unaware of it? First, because of their faulty frame of reference, as we discussed earlier. Second, because we are dealing here with the inner world of the immigrant Muslim community, of which outsiders know very little. Immigrant Muslims, on the one hand, interact daily with the surrounding western society, according to Western rules; on the other hand, they maintain and perpetuate the characteristics of their original culture.

The traditions of the Muslim communities find their expression almost exclusively in the inner life of the community, in its language and in the codes ruling social conduct, which are very foreign to outsiders. Furthermore, since the basic and central element in this tradition is the religion, it is almost never known to or understood by non-Muslims.

Only rarely do we come across English-language expressions that provide a glimpse into the inner world of the Muslim immigrants in the West, revealing the conflict in which they live. One such example is a monthly magazine, "Khilafah", published in London and distributed in mosques in Britain and the United States.

The October 1991 issue carried an article entitled, "Capitalism: It's a Crime", condemning democracy, free spirit, and the Western way of life as the root of all evil. The article asserts that the Western ideal of freedom corrupts morality and leads to all the ills to which the West is prey. Western society is a "kufr system" ("system of heresy"), the article contends, and Muslims living in the West should "act as part of the global Muslim ummah (nation)".

Furthermore, according to the article, "The Muslim community must address this central issue in all their dealings as inhabitants of the West—in the schools, shops, colleges, workplaces, recreational centres, and media."

The magazine's perception of life in the West is best exemplified by its attitude to the Rushdie affair and the Gulf War, expressed this way:

"The authorities here showed the Muslim community that they will not tolerate concerted and united Muslim action on their lands during the Rushdie affair, when they ignored our grievances; and during the Gulf War, when they tried to scare the Muslims into silence and submission so that we would not express our support for the Muslims in the war * * * "

The underlying doctrine of this publication—as expressed in another article, "U.S. Bases"—is a total rejection of everything Western. The United States, Britain, and other European countries are "unbelieving countries," and Muslim countries are called on to ignore defense treaties and military pacts they have signed with the "unbelievers."

This is the background that has made the Muslim communities in the West in general, and in the United States in particular, an easily exploited source of support for militant groups.

Scores of such publications are distributed among the various immigrant communities, publications that foster identification with the plight of Muslims and Islam throughout the world, and with the struggle of militant movements.

The Muslim immigrant community in the United States today is served by about 1100 mosques and a multitude of community organizations. These organizations encourage the adoption of Muslim political and cultural values, as they have been established in the Middle East, Africa, and the Indian subcontinent for hundreds of years.

The Muslim immigrant communities in the West host annual conferences of militant Islamic groups from all over the world. Among the participants are often militant leaders wanted by law enforcement authorities in their own countries, usually for terrorist crimes. These leaders have found in the West a haven from which to conduct their activities.

Thus it should come as no surprise that the immigrant community serves not only as a source of financial support but also political and logistical support to the cadre of volunteers for the various Islamic fronts: Afghanistan, Sudan, Egypt, Algeria, etc. These militant volunteers are directed through the various community organizations, and through other working groups established especially for these purposes, such as Sheikh Abd al-Rahman's "Office of Jihad" in Brooklyn.

Often, the monies collected for a specific cause (Afghanistan, for example) are diverted to terrorist groups in Egypt. In the same way, monies collected for the welfare of the inhabitants of the Gaza Strip end up financing terrorist acts in Israel.

Activities on American soil (as well as the United Kingdom) include more than just incitement for violent action, like the call by Sheikh Rahman for the murder in Egypt of tourists, government and police officials, writers, artists, belly dancers, plastic surgeons, Jews, and Copts. They also include actual training for terrorist acts, along with specific instructions regarding acts of violence and terror, like the communication between the Hamas activists in the territories and their political leaders in the U.S. and U.K.

This is the dangerous reality from which the perpetrators of the World Trade Center bombing ventured forth. They also sent a letter to the New York Times before they were apprehended, threatening similar and more dangerous acts, including strikes on nuclear targets. After the arrests, too, their cohorts in Pakistan threatened action by "Al-Jama'ah al-Islamiya" and by Muslims the world over, if any harm came to Sheikh Umar.

These threats should not be underestimated.

Militant Islam sees the U.S. as an ideological enemy, regardless of the U.S.'s position toward it, (and despite any temporary alliance with the United States against a third party, like the former Soviet Union.) Therefore, official U.S. statements that the U.S. does not see Islam as its new enemy could not have saved American lives (nor will it), neither in faraway Cairo nor in the heart of Manhattan. Law enforcement agencies have done an outstanding job in apprehending the culprits in the World Trade Center bombing. But the root of the problem is still intact.

This predicament is all too familiar. France had a similar experience in 1985 and '86, when a militant Hizbullah group emerged from the Shi'ite immigrant community and committed 16 acts of terror, some in the very heart of Paris (at the Galeries Lafayette, the Eiffel Tower, the Place de l'Opera and the Champs Elysees, to name a few).

It should be kept in mind that Hizbullah continues to maintain a strong foothold and broad infrastructure within the Shi'ite communities of North America, Latin America, Central Africa and Europe.

We know for certain of attempts by Hizbullah to smuggle hundreds of kilograms of explosives into Europe, and may assume that this is true for other parts of the world as well. Members of the Hizbullah also serve as Iran's hit men in the campaign of assassination of Iranian opposition leaders in the West. Only recently, they murdered three Kurdish leaders in Germany.

ARAB RESPONSES TO THE THREAT

Briefly, these responses fall into four main categories:

The first is simply annihilation of the terrorists. There are no apparent terrorist activities in Syria, Iraq, and other states known to have committed mass killings of their own people, and who continue to assassinate their opponents on Western soil.

The second approach—"if you can't beat them, buy them" (or buy time)—is the worn-out Saudi approach toward all its adversaries. On the one hand, the Saudi regime does in fact apply the Shari'ah; on the other hand, it pays "protection money" to terrorist organizations (such as Hamas, or even F.I.S. in Algeria), as it used to do with hostile forces that surround it.

The problem with this approach is that it only strengthens the militants, materially

and ideologically. It does not relieve the problem but rather exacerbates it.

The third approach—the Machiavellian attempt to pit one opposition group against the other in the hope that it they will weaken or destroy one another—has proved in the past to be very dangerous.

Sadat used this tactic when he freed Islamic militants arrested by Nasser to fight his war against the Left. This they did—they fought the communists—but then they killed Sadat.

The fourth approach, cooptation of the militant movements, was the great hope of countries like Algeria, Jordan, Egypt, and Tunisia. They tried to ride the tiger of Islam. They integrated the militant Islamic movements into the established political system in the hope that these groups would play according to the rules of the game.

But this strategy did not work either. In 1992 came the painful awakening: You can ride the tiger, but it still goes where it chooses. You can make militant Islamic movements lawful, but you cannot make them law-abiding.

It has also become apparent, contrary to the opinions of some Western commentators, that the mere diversity of the various Islamic organizations does not make them more moderate. For all share one common goal—to establish the rule of the Shari'ah.

In Jordan, for example, since the Islamic parties attained 30 of the 80 seats in parliament in 1989, 36 Islamic anti-democratic laws have been passed, including a law forbidding sanctions against Iraq.

The problem, however, lies not only in legislation. Arab regimes that chose the strategy of cooptation are now paying the price in blood. In Algeria and Egypt a life and death struggle is going on between the governments and the Islamic movements. The final outcome is hard to predict. Even in the U.S. there are those who do not expect the present regime in Algeria to last another two years.

The fortress-like building that houses the U.S. embassy in Jordan attests to the growing danger of militant Islam in that country too, as do the State Department advisories to tourists planning to visit Jordan.

Two Jordanian members of parliament belonging to militant Islamic organizations were discovered to be part of an armed conspiracy against the regime, supported by Iran. The Jordanians, who tolerated, albeit reluctantly, the existence on their soil of a terrorist infrastructure aimed at Israel, have discovered that the infrastructure has a boomerang effect, much in the way that the aid extended to the Muslim fighters in Afghanistan some years back may turn around and threaten the U.S. itself.

In the Arab world, some lessons have been heeded. Tunisian Foreign Minister Habib Bin-Yihya, speaking in Washington in June 1992, said: "We opened a dialogue with the fundamentalist leadership in 1987, in an attempt to lead them on a democratic path. Fundamentalist candidates ran as independents with the approval of the government. But then we learned that they were planning to take power by force. One has to be more careful. In an Islamic country, if you hold up a Koran and exploit a situation of poverty you are guaranteed an electoral majority."

Similarly, the Tunisian delegate to UNESCO, Abd al-Baqi Hermas, summing up a talk in Washington in Sept. 1992, said, "Moderate political Islam is dead. It has become radicalized. The question of integrating it into the political system is no longer relevant * * *"

Painfully but inevitably, Egypt and Algeria are reaching the same conclusion: confrontation is unavoidable. General Baha al-Din Ibrahim of the Egyptian Interior Ministry told Reuters (Oct. 18, '92), "We are determined to destroy them to the very base, because if they continue their activities, the country will collapse."

WHAT HAS BEEN DONE IN THE WEST?

The general picture is one of confusion. While sporadic steps have been taken, no criteria have been established to determine when an issue stops being a private religious matter and becomes a criminal matter—a question of public interest—that not only justifies but also demands intervention by the authorities.

In Europe some attempts have been made to address the issue on a cultural level. The French Ministry of Education banned the wearing of the traditional veil by Muslim schoolgirls in public schools. Some Common Market officials took to the barricades over the Iranian demand not to serve alcoholic beverages at meetings in which they participated.

More importantly, in 1988 in Koln, Germany, the police closed down an Islamic school, run by Sheikh Nuraddin Kaplan, nicknamed "The Khomeini of Koln" and known for its militant preaching and incitement. But the authorities hid behind administrative pretexts, skirting the fundamental issue. The municipality of Aachen in Germany revoked a building permit for a community center and mosque previously issued to the Syrian Muslim Brotherhood group, led by Issam al-Attar.

But direct confrontation on a political and ideological level does not occur. Tunisia and Algeria both implored France to take legal measures against F.I.S. and "Al-Nahda" supporters in their country, but to no avail. Militant Islam is on the rise in France. Militant Islamic preachers enjoy the freedom of France, just as Khomeini enjoyed political refugee status, until he overthrew the Shah and turned Iran into what it is today.

In no Western country is the Fatwa (religious decree) against Salman Rushdie, or its public endorsement, considered a criminal offense. Instead, it is treated as a private matter between an individual and his God. An appeal by friends of Salman Rushdie to the British authorities to prosecute the Islamic activists who endorsed the Fatwa was not heeded. The same is true for the Fatwa against foreign tourists in Egypt, even though American tourists have been killed there, and terrorists who have been arrested in Egypt maintain that they obey Sheikh Umar Abd al-Rahman, who issued the Fatwa.

RESPONSES TO THE THREATS

Terrorism is a strategic crime, combining elements of war and criminality. It must therefore be confronted strategically; conventional methods of crime solving will not suffice.

It is essential that we respond to these threats both at home and abroad. Each of these requires a different strategy:

The primary targets should be the states that sponsor terrorism. In dealing with these states, the west may restore its strategies for combatting communism.

First, containment, which may be applied in varying degrees from sanctions to an actual siege. Its effectiveness has been proved in the past. The economic and political sanctions applied against Syria in 1986 led to a significant decline in international terrorism in 1987. The number of casualties dropped from more than 100 to 14. As soon as the sanctions were lifted, however, the numbers rose again in 1988 to record heights.

It is also safe to assume that the steps taken over the past two years against Libya and Iraq have contributed to the decline in international terrorism during this period.

For the past six months, Egypt has been trying to establish an Arab bloc to oppose Iran's war of subversion throughout the Middle East. While this is not unimportant politically, we cannot depend on this initiative alone. It may prove unreliable at the most critical moments. Notwithstanding, the Egyptian effort is no substitute for what would be truly effective—an effort by the West to contain Iran.

Official White House statements may indicate that the U.S. has recognized the validity of this strategy and may shortly initiate a plan of "Dual Containment" against both Iran and Iraq. (Iran's oil exports constitute 90% of its foreign income.)

Second, deterrence, which although more limited in effect, still constitutes an important countermeasure. It is known today that the actions taken in April 1986 against Kadhafi deterred him, at least temporarily, from additional terrorist activity. This comes as no surprise. After all, even these despots are, in the final analysis, human beings. If you bomb them, they are deterred.

Third, preemption, the validity of which was proved not so long ago. On the eve of the Gulf War, Iraq threatened and made actual preparations for a massive campaign of terrorism against the West.

In response, Western states took steps that can be described as a "preemptive strike" on potential sources of danger in the West—namely, a crackdown on Iraqi and PLO delegations and on their supporters within the Arab immigrant communities.

The result of this concerted action was that between 15 January and 15 March 1991, the overwhelming majority of terrorist acts were perpetrated not in the West but in Third World countries, and the number of victims was less than 10.

These strategies, however, do not suffice. We need an additional new strategy, one that has a positive goal, a longterm solution, rather than just a better way of confrontation.

What I suggest is a strategy aimed at a longterm, multifaceted transformation of the Middle East (comparable to the changes we can expect in some of the former members of the Soviet bloc). This will require support from the West for every regional effort and force aspiring to:

A. Transformation of fanatical and militant Islam to a moderate (reformed) version, in a process similar to that which took place ages ago in other religions; and

B. Transformation from totalitarianism to democracy.

Note.—When I speak of transformation from totalitarianism to democracy it must be emphasized that democracy cannot be reduced to merely the technical formality of an election that would be no more than a one-time referendum of allegiance to Islam, as occurred in Algeria. Democracy in its true sense must include a clear commitment to pluralism and inalienable human rights.

Time and format do not permit me to elaborate on the ways these strategic principles will be translated from concepts to specific plans. Suffice to say that what I have in mind is not a theoretical exercise but an operational outline for action.

On the home front too, a proactive approach is required. The U.S does not have enough defensive preparedness built into its

civilian infrastructure. Moreover, in a free and open society of a superpower such as the U.S., an approach relying only on strict defensive security measures may paralyze life completely.

Furthermore, in democracies, law enforcement agencies are relatively small in number when measured against defensive needs.

So the solution must indeed be proactive. Of course, the proactive approach is not free of dilemmas. It touches upon some of our most sacred values. But in view of the imminent threat to human lives, there is a vital need to find constitutionally allowable measures to counter the threat.

First, the rights to political asylum and relatively free entry into the U.S. must be reconsidered. When granted too freely, they backfire. In an interview in the New York Times, Oliver Revel of the F.B.I. said, "We are the only nation in the world that cannot uninvite people to our shores, even when we find that they are engaged in supporting terrorist groups involved in attacks on Americans."

A legal distinction must be drawn between those prospective immigrants who genuinely wish to integrate into American society, embracing its values and abiding by its rules—like most previous waves of immigrants to the U.S.—and those other immigrants who regard the U.S. as a haven to be abused and reject its values, seeking to undermine them.

Because this privilege is so basic a right, it must be based on criteria more objective than just the declaration of the petitioner.

Second, the freedom of religion espoused by the Founding Fathers could not in any way have tolerated Jihad. While it may have served us well in Afghanistan, Jihad cannot be tolerated when it wrecks the World Trade Center, and perhaps, if press reports are correct, also threatens St. Patrick's Cathedral, Saks Fifth Avenue and the Washington Monument.

Nor could the doctrine of freedom of religion, in a broader context, allow for the right to incite the killing of writers, artists, intellectuals, and leaders of other countries, and especially, not the right to incite the killing of tourists—like the Americans murdered in Egypt—even when these murders stem from religious decrees issued by a recognized cleric. This should not be taken as a private matter of religion between an individual and his God. It must be seen for what it is: a criminal act to be dealt with by law enforcement agencies and judicial authorities.

In a democracy, freedom of religion does not allow for the domination of one religion over others, and must certainly reject outright any religious doctrine that discriminates between members of different religions and between the sexes, etc.

The question is not whether this is true, original Islam, or a militant aberration. Just as we would not permit, in the name of freedom of religion, reestablishment of the Inquisition or a ritual of human sacrifice, so we must reject Jihad.

It is clear that in time, militant Islam is going to present a difficult question to the democratic world: When do theological tenets cross the line into illegal incitement to violence? Free societies need to review the constitutionally permissible means to combat a broad-based, ideological, violent threat to their citizens and to their social and political institutions.

Time and format do not permit me to elaborate on the ways in which these recommendations should be applied. But again, what I have in mind is not a mere academic exercise; it is a valid operational outline for action.

I realize that I'm raising grave and complex issues, deeply disturbing to all of us who cherish civil liberties and freedom of religion. But unlike some other tragic low-intensity conflicts in today's world, we are dealing here with a problem that affects the lives and interests of Western societies, both abroad and at home.

I'm also well aware of the fact that in democracies, as Ernest Bevin said, "nothing will change until there is a reasonable amount of bloodshed."

But it is our responsibility to issue an early warning. And if, as a result, the necessary debate begins, then we will have done our share.

Again, Mr. Speaker, I want to thank my colleagues for what is in the bill today, but it is only a tiny fraction of what is necessary. I hope that in the intervening year or the few months before that report comes that we are able to digest what is needed and that the administration really will act. So far it has not.

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman yielding, and I realize when the gentleman made his initial amendment on the floor that it was much more than just the sense of the Congress, which the gentleman was very conciliatory in finally adopting, but let me mention to the gentleman, as the sense of the Congress that the House passed, that was only a sense of the Congress. This report is required, and basically that requirement surrounds——

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

Mr. COMBEST. Mr. Speaker, I yield 30 additional seconds to the gentleman from Florida.

Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. COMBEST. The report is required, and primarily what we have outlined in that report that must come forward is pretty much basically what the gentleman's—what the sense of the Congress resolution was. So, I do want to again alert the Member that this is also not a matter which we take lightly, and that report is required to be filed, and I would suspect that from that report we will use that to take further actions in the future and would encourage, and not only encourage, but would enlist and beg of the gentleman that he would continue to be very involved in that area.

Mr. McCOLLUM. If I may respond, I appreciate what the gentleman from Texas [Mr. COMBEST] is saying very much, and I will recognize what is in here, and it is a major accomplishment. That is why I was thanking him. I do appreciate it. But we have a long way to go, and it does not do the trick yet.

Mr. COMBEST. I agree, and if the gentleman would continue to yield, we do have a long way to go, and I would like to walk hand in hand with the gentleman to make sure we get there.

Mr. McCOLLUM. Appreciate it.

The SPEAKER pro tempore. The time of the gentleman from Texas [Mr. COMBEST] has expired.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

## NATIONAL ENVIRONMENTAL POLICY ACT ADMINISTRATIVE REORGANIZATION AMENDMENTS OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3512) to abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council.

The Clerk read as follows:

H.R. 3512

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Environmental Policy Act Administrative Reorganization Amendments of 1993".

**SEC. 2. ESTABLISHMENT OF OFFICE OF NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE.**

Sections 201, 202, and 204 of title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) are redesignated and amended to read as follows:

"SEC. 201. (a) There is established in the Executive Office of the President the Office of National Environmental Policy Act Compliance. The Office may be referred to as the 'Office of NEPA Compliance'.

"(b) The head of the Office shall be the Director of the Office of National Environmental Policy Act Compliance, who shall be appointed by the President, by and with the advice and consent of the Senate. The compensation of the Director shall be at the rate of compensation payable to the Deputy Director of the Office of Management and Budget.

"SEC. 202. (a) The Director shall—

"(1) promulgate regulations governing the implementation of this Act by all Federal agencies (including independent regulatory commissions) which include provisions for public review and comment on the detailed statements required by section 102(2)(C) and, as appropriate, on other documents prepared pursuant to this Act;

"(2) mediate interagency disputes, including recommending to the President, as appropriate, resolutions of referrals of interagency disagreements under section 203; and

"(3) monitor Federal agency implementation of this Act and regulations issued under paragraph (1), including—

"(A) reviewing and approving regulations issued by other Federal agencies to implement this Act;

"(B) determining which Federal agency is the lead agency for purposes of compliance with this Act in cases in which Federal agencies do not agree on which is the lead agency;

"(C) developing alternative procedures for complying with this Act in cases in which emergency circumstances make it necessary for a Federal agency to take an action with significant environmental impact;

"(D) developing alternative procedures for complying with this Act, in cases in which a change in a proposed Federal agency action or new information relating to the environmental impacts of such an action makes it necessary to supplement existing analysis under this Act; and

"(E) developing and publishing guidance to Federal agencies regarding implementation of title I and regulations promulgated under paragraph (1).

"(b) Nothing in this Act shall be construed to affect, alter, or limit the independence of independent regulatory commissions under the laws establishing such commissions. The policies, practices, and interpretations under this Act and the Environmental Quality Improvement Act of 1970 and other laws applicable to, or adopted by, such commissions or the Council on Environmental Quality before the date of the enactment of the National Environmental Policy Act Administrative Reorganization Amendments of 1993 shall continue in effect to the extent they are consistent with such independence and carry out the purposes of such Acts.

"(c)(1) The Director, subject to paragraph (2), shall—

"(A) review and appraise the various programs and activities of the Federal Government in light of the policy set forth in title I for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy and make recommendations to the President with respect thereto;

"(B) coordinate or facilitate the development of recommendations to the President regarding national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation; and

"(C) coordinate or facilitate the development of such studies, reports thereon, and recommendations with respect to matters of policy and legislation, as the President may request.

"(2) The President may transfer to another official in the Executive Office of the President, by Executive order, any function of the Director under this subsection.

"(d)(1) The Director, subject to paragraph (2), shall—

"(A) assist Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by the Congress, which affect environmental quality; and

"(B) assist in coordinating among Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality.

"(2) The President may transfer to another official in the Executive Office of the President or to the head of any Federal agency, by Executive order, any function of the Director under this subsection.

"(e) The Director shall keep the appropriate Committees of the Senate and the House of Representatives informed of the actions, regulations, policies, and practices of the Office in carrying out the functions and other requirements of the Director and the Office under this Act (other than functions of the Director transferred in accordance with subsection (c)(2) or (d)(2)).

"SEC. 203. Referrals of interagency disagreements by the head of any Federal agency concerning proposed major Federal actions significantly affecting the quality of the human environment under section 102(2)(C) or concerning matters under section 309(b) of the Clean Air Act shall be made to the Office for mediation and, as appropriate, resolution by the President.".

**SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO NEPA.**

Sections 203, 205, 207, and 208 of the National Environmental Policy Act of 1969, as in effect on the date of enactment of this Act, are redesignated in order as sections 204, 205, 206, and 207, respectively; such sections are each amended by striking "Council" and inserting "Office" each place it appears; and section 206 of such Act, as in effect on the day before the date of the enactment of this Act, is repealed.

**SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS TO THE ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970.**

The Environmental Quality Improvement Act of 1970 (42 U.S.C. 4372 et seq.) is amended—

(1) in section 202(c) by—

(A) striking "The purposes" and all that follows through "(1) to" and inserting "the purpose of this title is to"; and

(B) striking "; and" and all that follows through the end of the section and inserting a period;

(2) in section 203, by striking subsections (a) through (d) and the designation for subsection (e);

(3) by striking sections 204 and 205;

(4) in section 206(a), by striking "Office of Environmental Quality Management Fund" and inserting "Office of National Environmental Policy Act Compliance Management Fund";

(5) by redesignating section 206 as section 204; and

(6) by adding at the end the following:

"DEFINITIONS

"SEC. 205. In this title, each of the terms 'Director' and 'Office' has the meaning given that term in section 3 of the National Environmental Policy Act of 1969.".

**SEC. 5. ASSISTANCE FOR OFFICE OF NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE.**

The National Environmental Policy Act of 1969 (as amended by section 3) is amended by inserting after section 207 the following:

"SEC. 208. To assist in the timely performance of the functions of the Office, the Director may utilize personnel or otherwise obtain assistance from other entities in the Executive Office of the President or other Federal agencies, by mutual consent with the heads of those entities or agencies, to assist the Director in performing the functions of the Office.".

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

Section 209 of the National Environmental Policy Act of 1969 is amended to read as follows:

"SEC. 209. (a) There are authorized to be appropriated to the Director to carry out the functions of the Director under this or any other Act—

"(1) $1,000,000 for fiscal year 1994;

"(2) $1,100,000 for fiscal year 1995;

"(3) $1,200,000 for fiscal year 1996; and

"(4) $1,400,000 for fiscal year 1997.

"(b) Amounts appropriated to, or available for the use of, the Office or the Director shall remain available until expended.".

**SEC. 7. DEFINITIONS.**

The National Environmental Policy Act of 1969 is amended by inserting after section 2 (42 U.S.C. 4321) the following:

"SEC. 3. In this Act:

"(1) The term 'Director' means the Director of the Office of National Environmental Policy Act Compliance appointed under section 201(b).

"(2) The term 'Fund' means the Office of National Environmental Policy Act Compliance Management Fund established by section 204 of the Environmental Quality Improvement Act of 1970.

"(3) The term 'Office' means the Office of National Environmental Policy Act Compliance established by section 201(a).".

**SEC. 8. TRANSFER OF FUNCTIONS TO SECRETARY OF THE ENVIRONMENT.**

(a) TRANSFERS.—There are transferred to the Secretary of the Environment—

(1) the functions of the Council on Environmental Quality under paragraphs (2), (5), (6), and (7) of section 204 of the National Environmental Policy Act of 1969, as in effect on the day before the date of the enactment of this Act; and

(2) the functions of the Chairman of the Council on Environmental Quality (as Director of the Office of Environmental Quality) under paragraphs (3), (4), (6), and (7) of section 203(d) of the Environmental Quality Improvement Act of 1970, as in effect on the day before the date of the enactment of this Act.

(b) CONSTRUCTION.—The functions transferred to the Secretary of the Environment by this section or pursuant to any executive order issued pursuant to amendments made by this Act shall not be construed by anyone to affect, alter, change, or amend any other law or regulation administered by the Secretary or his or her delegate.

(c) ACCOUNTABILITY.—The Secretary of the Environment shall be accountable to the appropriate committees of the Senate and House of Representatives for all functions described in subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary specifically to carry out the functions described in subsection (b) effectively and in a timely manner.

**SEC. 9. TERMINATION OF COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY.**

(a) TERMINATION.—The Council on Environmental Quality and the Office of Environmental Quality are terminated.

(b) REFERENCES.—Reference to the Council on Environmental Quality, the Office of Environmental Quality, or any officer or employee of that council or that office in any

other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Council on Environmental Quality—

(1) with respect to functions that were vested in that council or office on the day before the date of the enactment of this Act and are vested in the Director of the Office of National Environmental Policy Act Compliance Office by section 202 of the National Environmental Policy Act of 1969, as amended by section 2 of this Act, is deemed to refer to the Director of the Office of National Environmental Policy Act Compliance or to such other official to whom such a function is transferred in accordance with section 202(c)(2) or (d)(2) of that Act, as appropriate; or

(2) with regard to disputes, disagreements, and matters described in sections 202(a)(2) and 203 of that Act, as amended by section 2 of this Act, is deemed to refer to the Director of the Office of National Environmental Policy Act Compliance or to that office, as appropriate.

(c) SAVINGS PROVISIONS.—

(1) CONTINUATION OF ORDERS, ETC.—All orders, determinations, rules, regulations, agreements, grants, contracts, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, the Council on Environmental Quality, or the Office of Environmental Quality, in the performance of functions of the Council on Environmental Quality or the Office of Environmental Quality, or by a court of competent jurisdiction with respect to those functions, and

(B) which are in effect on the date of the enactment of this Act, or were final before that date of enactment and are to become effective on or after that date of enactment,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Office of National Environmental Policy Act Compliance, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) CONTINUATION OF PROCEEDINGS AND APPLICATIONS.—The provisions of this Act shall not affect any proceedings pending before the Council on Environmental Quality on the date of the enactment of this Act, but such proceedings shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(4) SUITS INVOLVING COUNCIL OR OFFICE.—No suit, action, or other proceeding commenced by or against the Council on Environmental Quality or the Office of Environmental Quality, or by or against any individual in the official capacity of such individual as an officer or employee of the Council or that Office, shall abate by reason of the enactment of this Act.

(5) RULEMAKING.—Any administrative action relating to the preparation or promulgation of a regulation by the Council on Environmental Quality shall be continued by the Director of the Office of National Environmental Policy Act Compliance or the President with the same effect as if this Act had not been enacted.

(6) ASSETS AND INTERESTS.—The contracts, liabilities, records, property, and other assets and interests of the Council on Environmental Quality and the Office of Environmental Quality shall, on and after the date of the enactment of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Office of National Environmental Policy Act Compliance.

(d) CONTINUING AVAILABILITY OF AMOUNTS.—Amounts available to the Council on Environmental Quality on the date of the enactment of this Act shall be available for use by the Director of the Office of National Environmental Policy Act Compliance.

**SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.**

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is amended—

(1) in section 2 (42 U.S.C. 4321)—

(A) by inserting "and" after "man;"; and

(B) by striking "Nation;" and all that follows through the end of the section and inserting "Nation.";

(2) by striking "Council on Environmental Quality" each place that term appears and inserting "Director";

(3) in section 102(2)(B) (42 U.S.C. 4332(2)(B)) by striking "established by title II of this Act";

(4) in section 102(2)(G) (42 U.S.C. 4332(2)(G)) by inserting "and" after the semicolon;

(5) in section 102(2)(H) (42 U.S.C. 4332(2)(H)) by striking "; and" and inserting a period;

(6) by striking section 102(2)(I) (42 U.S.C. 4332(2)(I));

(7) in section 205(1) (42 U.S.C. 4345(1)) by striking "the Citizen's" and all that follows through "and with"; and

(8) in section 205(2) (42 U.S.C. 4345(2)) by striking "the Council's" and inserting "the Office's".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognized the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just alert our colleagues that the gentleman from Texas [Mr. FIELDS] and myself have agreed to move with considerable speed here because of the time constraints on the House.

Mr. Speaker, H.R. 3512, reflects an agreement reached with the administration with respect to the issue of what institution will replace the Council on Environmental Quality [CEQ] and the Office on Environmental Quality to implement one of our more sacred environmental laws, the National Environmental Policy Act [NEPA] of 1969.

I should note that, in my discussions with the administration, I have been assisted by one of the ablest Members of the House. When he was a member of the Merchant Marine and Fisheries Committee and the chairman of the Fisheries and Wildlife Subcommittee our esteemed colleague, JOHN DINGELL, was responsible, along with Senator "Scoop" Jackson and others, for the enactment of NEPA and the establishment of CEQ. Chairman DINGELL has been extremely helpful in our negotiations with the administration and in reaching the agreement contained in this bill and I would like to take this opportunity to express my appreciation to him.

At the request of the administration, this agreement was going to be offered on the floor as an amendment to H.R. 3425, the EPA cabinet bill, and become part of the conference committee deliberations with the Senate on that legislation.

However, my amendment was determined to be nongermane to the EPA bill and the Rules Committee did not make it in order. When I was informed of that action by the Rules Committee, I decided that the CEQ bill should move under regular order and on an independent trade because we must resolve the issue of which institution is going to continue the implementation of NEPA. This bill was marked up and ordered reported on a voice vote, without amendment, by the committee 2 days ago and I am pleased to be able to bring it before the House today.

In a nutshell, this bill abolishes the CEQ and OEQ and replaces them with the substantially smaller Office of NEPA Compliance in the Executive Office of the President.

In part, this reduction in office size reflects the repeal of the requirement for the mammoth annual CEQ report, the transfer of a number of functions in existing law to the new Department of Environmental Protection—when that legislation is enacted—the opportunity for the President to assign even further environmental functions to other units in the Executive Office of the President, and the streamlining of the mission of the new office to fewer, but critically important, core NEPA functions.

I want to make it clear that we are not in any way expanding the existing NEPA-related authorities of CEQ by creating the new office and we are not amending title I of NEPA dealing with the content of, or the procedures to follow with respect to, environmental impact statements.

The responsibilities of the new office are based on the accepted and historical practice of CEQ in implementing NEPA. These include authority to promulgate NEPA regulations, oversee agency compliance with the act, and mediate interagency disputes. These functions are based on present authority in law, executive orders, existing

CEQ regulations, or by established CEQ practice.

As to the matters that are delegated to the EPA under the bill, I point out that the legislation makes it clear that this delegation is not designed to enhance in any way or change the various statutory authorities currently administered by the EPA. It does not give EPA new powers relative to those authorities, nor does it weaken those authorities. The EPA cannot use these delegations to expand their authorities. In short, the delegation is solely for the purposes of carrying out the specific requirements of NEPA in the 1970 legislation.

The legislation includes, at Mr. DINGELL's urging, provisions regarding independent regulatory agencies. These provisions are designed to ensure that we do not in any way change or affect the independence of these agencies under existing law. It is not to be used by the executive branch as a means or measure to control or affect these agencies under existing law.

This bill protects the integrity of NEPA, addresses the issues that Chairman DINGELL and I raised with the White House and, at the same time, provides the Administration with broad discretion for environmental policy development in the White House and a more tightly structured office to focus on NEPA compliance.

I urge the support of the House for this important legislation and I reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3512, the National Environmental Policy Act [NEPA] Administrative Reorganization Amendments of 1993.

The Council on Environmental Quality [CEQ], which was established in 1969, has provided valuable services to the Government. It has advised Presidents on environmental issues, and has coordinated environmental policy among various Federal agencies. I regretted to learn that President Clinton recommended the abolishment of the CEQ, and am pleased that we are acting today to adopt this legislation.

While the bill abolishes the Council on Environmental Quality, it transfers many of its duties and functions to a new office entitled the Office of NEPA Compliance. In addition, the bill gives the President the option of transferring certain of CEQ's functions to other Federal agencies.

Mr. Speaker, I believe that this bill will save money while at the same time ensuring that these responsibilities are carried out in a coordinated and efficient manner. I urge my colleagues to support this important bill.

Mr. STUDDS. Mr. Speaker, I have no requests for time.

Mr. FIELDS of Texas. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3512.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

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## FOUNTAIN DARTER CAPTIVE PROPAGATION RESEARCH ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3402) to establish a fountain darter captive propagation research program, as amended.

The Clerk read as follows:

H.R. 3402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This act may be cited as the "Fountain Darter Captive Propagation Research Act of 1993".

**SEC. 2. FOUNTAIN DARTER CAPTIVE PROPAGATION RESEARCH.**

(a) ESTABLISHMENT—The Secretary of the Department of the Interior shall establish a fountain darter captive propagation research program.

(b) PROGRAM.—The Program shall—

(1) be operated in a manner that is consistent with the goals, priorities, and policies set forth in the San Marcos Recovery Plan for San Marcos River endangered and threatened species;

(2) conduct research to establish and maintain a fountain darter captive broodstock population at the San Marcos National Fish Hatchery and Technology Center for the propagation and production of offspring to be used in the recovery of this endangered species; and

(3) establish a cooperative research effort at Texas A&M University to assist in the recovery effort for this endangered species.

(c) AUTHORIZATION OF APPROPRIATIONS—There are authorized to be appropriated annually to the Secretary of the Department of the Interior $1 million to conduct the Program for a five-year period beginning in Fiscal Year 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3402, the Fountain Darter Captive Propagation Research Act of 1993, introduced by Mr. FIELDS, authorizes a captive breeding research program for the endangered fountain darter of the San Marcos River in Texas. The bill has been amended to ensure that the fountain darter program will be conducted consistent with the goals of the recovery plan developed by the Department of the Interior.

The bill, as reported by the Committee on Merchant Marine and Fisheries has strong bipartisan support, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3402. As the author of this legislation, I am pleased that we are acting on this bill to require the Secretary of Interior to conduct research to help save the fountain darter.

The purpose of this bill is threefold. First, it calls for a captive population of fountain darters, an endangered species, to be established, maintained, and propagated at the San Marcos National Fish Hatchery and Technology Center in San Marcos, TX. Second, it requires research, aimed at recovery of this species, to be undertaken cooperatively with Texas A&M University. And finally, it authorizes funds to the Department of the Interior to support this biological research program.

Mr. Speaker, I do not want to take a lot of time debating the merits of saving a 1-inch fish. The Committee on Merchant Marine and Fisheries has already discussed at great length the tremendous pressure, chaos, and economic uncertainty that the fountain darter has brought to millions of Texans in the San Antonio region. In fact, in July of this year, our committee conducted two oversight hearings in San Marcos and San Antonio, TX, on the Endangered Species Act. At that time, there was extensive testimony on the fountain darter and the need to develop a comprehensive plan to propagate this species.

In 1985, when the Fish and Wildlife Service published its recovery plan for the San Marcos River, it specifically called for the establishment of a captive group of fountain darters which could be reintroduced into either the San Marcos or Comal Springs should this habitat dry up in the future. The bill before us requires that this research effort will be operated in a manner consistent with the approved San Marcos River recovery plan.

Mr. Speaker, captive propagation is an innovative technique that has been successfully used in the recovery of other endangered species such as whooping cranes, California condors, and, most recently, the black-footed ferret.

The San Marcos National Fish Hatchery has the expertise to examine new research methods and techniques to help in the recovery of this endangered fish. Texas A&M University's

fishery program is also ideally suited to assist in these recovery efforts to make the fountain darter one of the most prolific species on earth.

Mr. Speaker, this bill, which authorizes $1 million for the program for a 5-year period beginning in fiscal year 1994, is a modest attempt to address the problems of one of our endangered species. I would hope my colleagues would support this important legislation.

Mr. Speaker, I urge adoption of the bill.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER, pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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## WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK PROGRAM ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2457) to direct the Secretary of the Interior to conduct a salmon captive broodstock program, as amended.

The Clerk read as follows:

H.R. 2457

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Winter Run Chinook Salmon Captive Broodstock Act of 1993."

**SEC. 2. ESTABLISHMENT OF SALMON CAPTIVE BROODSTOCK PROGRAM.**

(a) IN GENERAL.—Subject to subsection (d), the Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall conduct in accordance with this section a salmon captive broodstock program (hereinafter in this section referred to as the "Program").

(b) PROGRAM.—The program shall be carried out in a manner that is consistent with the goals, priorities, and policies set forth in any recovery plan for winter run Chinook salmon in the Sacramento River developed by the National Marine Fisheries Service under the Endangered Species Act of 1973, and with findings of consultations regarding that population of salmon carried out pursuant to section 7 of that Act.

(c) CONSULTATION.—The Secretary shall consult with the Winter Run Chinook Salmon Captive Broodstock Committee (a committee identified in the document entitled "Biological Assessment on the Effects of Coleman National Fish Hatchery Operations on Winter Run Chinook Salmon", prepared by the United States Fish and Wildlife Service) in making management decisions regarding the Program.

(d) STATE MATCHING.—The Secretary may not implement this section unless not less than 20 percent of amounts necessary to conduct the Program are provided by non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to conduct the Program $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993, was introduced by Congresswoman NANCY PELOSI, and several of her California colleagues. Last year, the Committee on Merchant Marine and Fisheries worked with the Natural Resources Committee and the California delegation on the Central Valley Project Improvement Act. This bill will further those efforts to ensure the recovery of endangered salmon in California.

This bill authorizes the Secretary of the Interior to establish a captive broodstock program for the only chinook salmon stock that spawns in the winter on the west coast. The program must be consistent with the goals of the endangered species recovery plan for the winter run chinook and at least 20 percent of funds necessary to run it must come from non-Federal sources.

The administration had some concerns with the bill as introduced. The committee has addressed those issues and the bill now enjoys the support of the Interior Department and the fishing industry and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2457, a bill introduced by Congresswoman NANCY PELOSI of California. This bill would direct the Secretary of the Interior to conduct a captive broodstock program to help in the recovery of the endangered winter-run chinook salmon of the Sacramento River.

The National Marine Fisheries Service has been involved with this effort over the last 2 years, and this bill would provide additional assistance for that program.

The bill was amended by the Committee on Merchant Marine and Fisheries to require that the program be operated in a manner consistent with the goals, priorities, and policies set forth in the recovery plan currently being developed for the species.

Mr. Speaker, I support adoption of this bill because it provides an innovative approach to help increase the population of this important endangered species.

Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 15 seconds to the distinguished gentlewoman from California [Ms. PELOSI], the author of the bill.

Ms. PELOSI. Mr. Speaker, the chairman of the Merchant Marine and Fisheries Committee, Mr. STUDDS, has made it possible to bring H.R. 2457 to the floor in a timely manner and I appreciate his efforts and the work of the committee on behalf of preserving the winter run chinook salmon species.

I also appreciate the support of Representatives HAMBURG, MILLER, and FAZIO, who were early supporters of the initiative to protect this important west coast resource.

We have a serious problem in our region that encompasses the many different animals, plants, fish, rivers and streams that make up a complex, interdependent ecosystem throughout the bay-delta estuary. These problems need to be treated with a comprehensive, coordinated effort that aligns the policies of the various Federal and State agencies involved. The winter run chinook salmon captive broodstock program is an example of just such an effort.

The program outlined in H.R. 2457 will allow us to learn more about the science behind the winter run chinook salmon and to use the information in our future endeavors to preserve the species. Its purpose is to genetically preserve the species by supplementing the natural population, and as part of a comprehensive and cooperative effort, to restore water quality and a habitat that can support the natural wildlife of the region.

In 1969, this species numbered more than 100,000 fish and enjoyed spawning grounds far upstream and flourished in a relatively healthy ecosystem. This has all changed and the chinook spawning population declined to 191 fish in 1991. The 1992 count represents only 1 percent of the species level in 1969.

The captive salmon broodstock program is already underway. As of September 1992, 1,000 juvenile salmon are being raised in captivity for 3 years until maturity when they will be spawned and their progeny fish will then be returned to the wild. The program has a 10-year life span, hopefully, enough time so that habitat conditions can be sufficiently improved and the population can thrive once again.

H.R. 2457 provides for an initial 5-year program so that it can be reviewed at midpoint to determine its effectiveness. As the chairmen mentioned, the program is a cooperative effort, and is supported by the Department of the Interior, National Marine Fisheries Service, U.S. Fish and Wildlife Service, Pacific Coast Federation of Fishermen's Associations, California Department of Fish and Game, California Department of Natural Resources, U.S. Bureau of Reclamation, California Water Commission, Golden Gate Sportsfisherman's Association, University of California, and the California Academy of Sciences.

Certain modifications were made to H.R. 2457 during consideration by the committee, which reflect concerns raised by the administration. I will reemphasize for the record that this program is to be in conjunction and consistent with the overall recovery plan for the species.

Species protection must be a priority for all of us in a worldwide effort to maintain biodiversity. Habitat restoration and captive breeding programs are critical to achieving this priority. The winter run chinook salmon captive breeding program is one way to make a contribution to the preservation and restoration of this species in the San Francisco Bay-Delta region. It is a genetic insurance policy.

I urge my colleagues to support H.R. 2457 and to vote in favor of protecting this vanishing species.

Mr. STUDDS. Mr. Speaker, I yield 15 seconds to the gentleman from California [Mr. HAMBURG], the coauthor of the bill.

Mr. HAMBURG. Mr. Speaker, I rise in strong support of H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993.

The Sacramento River winter run chinook salmon is listed as threatened under the Endangered Species Act. Listing of the winter run and other Pacific salmon stocks have resulted in devastating impacts to the coastal economics of northern California and the Pacific Northwest.

This captive broodstock program is a preventive measure to help restore these fish so that further fisheries closures and damage to our economy can be avoided. However, captive rearing must never become a substitute for recovery of a species in the wild. Restoration of the decimated Sacramento River ecosystem so these fish can once again thrive in their natural environment must continue to be our highest priority and obligation.

The winter run is only one sad participant in a tragic procession of imperiled salmon. More than 100 stocks are already extinct; an additional 214 are at risk of extinction.

The salmon fishery is as threatened as the fish which are its lifeblood. This industry, once worth billions of dollars to northern California and the Pacific Northwest, has been decimated. Coastal communities and their people who have depended on these fish for generations, suffer devastating economic and social pain.

H.R. 2457 is just one of many steps we must take in developing a comprehensive national strategy to rebuild this vital natural resource. Salmon have provided human beings with spiritual and physical sustenance for 10,000 years. Our generation must not be the last to enjoy these gifts.

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act.

Mr. Speaker, with all the talk about the environmental trainwrecks associated with the Endangered Species Act, it is time for a much needed success story.

How do we define success under the Endangered Species Act? Quite simply, success is the recovery and delisting of the species.

When the winter run salmon was listed as a threatened species, the Federal Government immediately began the task of putting together a recovery plan to prevent the extinction of the species and the accompanying economic dislocation. The winter run recovery plan is a multifaceted program with both short-term and long-term goals.

The short-term goal is to stop the continued decline of the salmon runs. Toward that end, we have begun an aggressive recovery program that includes initiatives like the screening of water intake pipes and operating pumps to mitigate adverse impacts during critical salmon migration periods.

In looking to solve the long-term loss of the species, the recovery efforts also include initiatives like the Shasta Temperature Control device, a modification of an existing dam that allows for releases of colder water during critical periods in the life-cycle of the salmon. The winter run recovery plan includes upgrading facilities at existing fish hatcheries to improve artificial propagation of the species. These improvements in fish propagation are all part of a concerted, multi-faceted effort to bring back the winter run salmon.

The captive broodstock program is an important part of this overall, coordinated effort to finally have a successful recovery of a species listed as threatened under the Endangered Species Act. The legislation has been the focal point of an impressive and somewhat unexpected alliance made up of farmers, fishermen, environmentalists, and economists. This group has been brought together because they believe that the captive broodstock program will play a crucial role in bringing back the salmon.

At the most basic level, the broodstock project will serve as an insurance policy of sorts by protecting and preserving the genetic material of the winter run salmon in a captive setting. The captive salmon give our biologists a protected gene pool that is insulated from events that might affect the native river runs. The captive program will buy time to find solutions to reverse the loss the species.

Beyond the benefits of the captive program, the broodstock project will help supplement the native run by providing a source of eggs for fish hatcheries. We are looking to this program to provide us with answers about how we can augment and strengthen the wild run with artificial propagation of salmon. The answers we find by studying the captive salmon have the potential to help us with captive breeding programs for other threatened or endangered species.

This legislation is more than a symbolic effort to protect the species. The captive broodstock program is about preserving our options and maximizing the chances of full recovery of the winter run salmon. More importantly, the broodstock plan is part of our overall efforts to finally have that much-needs and far too elusive success story under the Endangered Species Act.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2457, as amended.

The question was taken.

Mr. STUDDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## MERCHANT MARINE MEMORIAL ENHANCEMENT ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 58) to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations, as amended.

The Clerk read as follows:

H.R. 58

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Merchant Marine Memorial Enhancement Act of 1993".

**SEC. 2. CONVEYANCE VESSELS.**

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey without consideration all right, title, and interest of the United States in 2 vessels described in subsection (b) to any nonprofit organization which in operates and maintains a Liberty Ship or Victory Ship as a memorial to merchant mariners.

(b) VESSELS DESCRIBED.—Vessels which may be conveyed under subsection (a) are vessels which—

(1) are in the National Defense Reserve Fleet on the date of the enactment of this Act;

(2) are not less than 4,000 displacement tons;

(3) have no usefulness to the Government; and

(4) are scheduled to scrapped.

(c) CONDITIONS OF CONVEYANCE.—As a condition of conveying any vessel to an organization under subsection (a), the Secretary shall require that before the date of the conveyance the organization enter into an

agreement under which the organization shall—

(1) sell the vessel for scrap purposes;

(2) use the proceeds of that scrapping for the purposes of refurbishing and making seaworthy a Liberty Ship or Victory Ship which the organization maintains as a memorial to merchant mariners, to enable the ship to participate in 1994 in commemorative activities in conjunction with the 50th anniversary of the Normandy invasion; and

(3) return to the United States any proceeds of scrapping carried out pursuant to paragraph (1) which are not used in accordance with paragraph (2).

(d) DEPOSIT OF AMOUNTS RETURNED.—Amounts returned to the United States pursuant to subsection (c)(3) shall be deposited in the Vessel Operations Revolving Fund created by the Act of June 2, 1951 (65 Stat. 59; 46 App. U.S.C. 1241a).

(e) DELIVERY OF VESSELS.—The Secretary shall deliver each vessel conveyed under this section —

(1) at the place where the vessel is located on the date of the approval of the conveyance by the Secretary;

(2) in its condition on that date; and

(3) without cost to the Government.

(f) EXPIRATION OF AUTHORITY TO CONVEY.—The authority of the Secretary under this section to convey vessels shall expire on the date that is 2 years after the date of the enactment of this Act.

**SEC. 3. DOCUMENTATION OF VESSELS.**

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the following vessels:

(1) ABORIGINAL (United States official number 942118).

(2) AFTERSAIL (United States official number 689427).

(3) ALEXANDRIA (United States official number 586490).

(4) AMANDA (Michigan registration number MC-1125-FR).

(5) ARBITRAGE II (United States official number 962861).

(6) ARIEL (United States official number 954762).

(7) BRANDARIS (former United States official number 263174).

(8) COMPASS ROSE (United States official number 695865).

(9) DIXIE (United States official number 513159).

(10) ELISSA (United States official number 697285).

(11) EMERALD PRINCESS (former United States official number 530095).

(12) ENTERPRISE (United States official number 692956).

(13) EUROPA STAR (former United States official number 588270).

(14) EUROPA SUN (former United States official number 596656).

(15) GAZELA OF PHILADELPHIA (Pennsylvania registration number PA-4339-AF).

(16) GRAY (Connecticut registration number CT-5944-AJ).

(17) GRIZZLY PROCESSOR (Canadian official number 369183).

(18) GUSTO (United States official number 624951).

(19) GYPSY COWBOY (United States official number 550771).

(20) IMPATIENT LADY (United States official number 553952).

(21) ISLAND GIRL (United States official number 674840).

(22) JULIET (Michigan registration number MC-1669-LM).

(23) KALENA (Hawaii registration number HA-1923-E).

(24) LAURISA (United States official number 924052).

(25) LIBBY ROSE (United States official number 236976).

(26) LISERON (United States official number 971339).

(27) MARINE STAR (United States official number 248329).

(28) MARINER (United States official number 285452).

(29) MARY B (Kentucky registration number KY-0098-HX).

(30) MOONSHINE (United States official number 974226).

(31) MYSTIQUE (United States official number 921194).

(32) NORTHERN LIGHT (United States official number 237510).

(33) PAI NUI (HAWAII registration number HA-6949-D).

(34) PANDACEA (United States official number 665892).

(35) PELICAN (United States official number 234959).

(36) PLAY PRETTY (United States official number 975346).

(37) PRINCE OF TIDES II (United States official number 903858).

(38) RBOAT (United States official number 563955).

(39) SABLE (Massachusetts registration number MS-1841-AM).

(40) SERENA (United States official number 965317).

(41) SHILOH (United States official number 902675).

(42) SIDEWINDER (United States official number 991719).

(43) SWELL DANCER (United States official number 622046).

(44) TESSA (United States official number 675130).

(45) TOP DUCK (United States official number 990973).

(46) VIKING (United States official number 286080).

(47) WHIT CON TIKI (United States official number 663923).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) or any other law restricting a foreign-flag vessel from operating in the coastwise trade, the foreign-flag vessel H851 may engage in the coastwise trade to transport an offshore drilling platform jacket from a place near Aransas Pass, Texas, to a site on the Outer Continental Shelf known as Viosca Knoll 989.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with a coastwise and Great Lakes endorsement for the vessels LADY CHARL II (United States official number 541399) and LINETTE (United States official number 654318).

(d) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V TWIN DRILL (Panama official number 8536-PEXT-2) if—

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than 3 times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995;

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract, which vessel shall also be documented under chapter 121 of title 46, United States Code.

(e) Notwithstanding sections 12106 and 12108 of title 46, United States Code, the Act of June 19, 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation with a coastwise and fishery endorsement for the vessel REEL CLASS (Hawaii registration number HA-6566-E).

(f) Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a fishery endorsement for the vessel DA WARRIOR (United States official number 962231).

(g) Notwithstanding any other law or any agreement with the United States Government, the vessels UST ATLANTIC (United States official number 601437) and UST PACIFIC (United States official number 613131) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(h) Notwithstanding any other law, the vessel AMY CHOUEST (United States official number 995631) is deemed to be less than 500 gross tons, as measured under chapter 145 of title 46, United States Code, for purposes of the maritime laws of the United States.

**SEC. 4. NAUTICAL CHARTING AND MARINE SAFETY IMPROVEMENTS.**

No later than 180 days after the date of enactment of this Act, the Secretary of Commerce may deploy a Physical Ocean Real-Time System consisting, at a minimum, of current, wind, tide, salinity, and water level measuring devices and necessary computer links, in Galveston Bay and the Houston Ship Channel.

**SEC. 5. PILOT PROGRAM ON SEALIFT TRAINING.**

The Secretary of Transportation shall establish a 3-year pilot program for Sealift Training at the Massachusetts Maritime Academy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993, was introduced by the gentlewoman from Maryland [Mrs. BENTLEY] to require the transfer of six vessels in the National Defense Reserve Fleet to three nonprofit organizations. These organizations will scrap these vessels and use the proceeds to refurbish three merchant marine memorial ships so that they may take part in the ceremony commemorating the 50th anniversary of the invasion of Normandy on June 6, 1994.

Merchant marine veterans and volunteers have already spent a significant amount of time and effort readying the three memorial ships—the *Jeremiah O'Brien*, the *John W. Brown*, and the *Lane Victory*—for the trip. However, without some type of Government assistance, it is unlikely that these ships can be made seaworthy.

The U.S. merchant marine played a pivotal role in our victory in World War II; without it, there could not have been a successful invasion of Normandy. The contributions of our merchant mariners deserve recognition. This effort deserves our help.

In addition, Mr. Speaker, the committee amendment contains a number of private bills, including waivers of the Jones Act, which the committee believes merit these exemptions.

Finally, the committee's bill includes authorization for an innovative Sealift Training Program at the Massachusetts Maritime Academy, and a demonstration project for a real-time tidal datum system which will help prevent accidents in the busy Houston ship channel.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in strong support of H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993. As a cosponsor of this legislation, which was introduced by our colleague, the Honorable HELEN BENTLEY, it is an honor to join with the other members of the Merchant Marine and Fisheries Committee to bring this bill to the floor of the House of Representatives.

This legislation would transfer six obsolete Government-owned vessels to three merchant marine organizations, which will scrap them in order to obtain money to refurbish three World War II vintage cargo ships, the *S.S. John W. Brown*, the *S.S. Jeremiah O'Brien*, and the *S.S. Lane Victory*. These restored, surviving ships have been invited to represent the wartime American merchant marine at the 50th anniversary ceremonies on June 6, 1994 Commission, commemorating the Allied landing at the beaches of Normandy.

Some of our colleagues may not know that the *S.S. John W. Brown* was saved from the scrap heap as a result of legislation approved by Congress in 1983. That legislation, enacted as Public Law 98–133, was originally introduced by our former colleague, the Honorable Mario Biaggi.

Similarly, the *S.S. Lane Victory* was preserved as a result of legislation introduced by another former colleague, the Honorable Glenn Anderson, that was enacted as Private Law 100–21.

Thousands of hours of volunteer labor have gone into the renovation of the three ships, but the riveting, welding, and dry-dock work needed to assure the integrity of the vessels' hulls is beyond the ability of the volunteer workers. The money to be raised by the scrapping of the six older vessels is to be used to pay for this type of highly skilled and most demanding shipyard repair work.

H.R. 58 is a bill that the Members of the House can view as one small effort to contribute toward the national celebration of the 50th anniversary of the liberation of Europe. It can be our way of paying tribute to the thousands of American merchant seamen who ensured the ultimate victory in World War II through their heroic service as part of our sealift effort. As has been said many times, it was the performance of our merchant marine that contributed directly to the successful outcome of that war.

We know that 168,000 merchant seamen helped to deliver troops and war material to every Allied invasion site from Guadalcanal to Omaha Beach. Gen. Douglas MacArthur said that "the merchant seamen participating in the liberation of the Philippines shared the heaviest enemy fire. They contributed tremendously to our success."

The price our merchant marine paid to keep us free was heavy: 569 U.S. merchant ships were destroyed; 6,632 seamen were killed; and 609 merchant mariners were taken as prisoners of war.

Indeed, the casualty rate for merchant seamen was second only to that of the U.S. Marine Corps during World War II.

In recognition of their efforts, President Roosevelt noted that they were men who "returned to their jobs at sea again and again, because they realized that the lifelines to our battlefronts would be broken if they did not carry out their vital part in this global war." Despite President Eisenhower's stated hope that America's merchant mariners' efforts in the war would long be remembered, the contributions made to winning the war by these brave men was all too readily forgotten. We can help correct history with the passage of this legislation.

This bill needs to be enacted quickly to assure the renovation of these three ships in a timely fashion, so they may participate in next year's celebrations.

Mr. Speaker, this legislation also includes waivers of the Jones Act for a number of small vessels to allow the owners to use the boats in our domestic commercial trade. The Merchant Marine and Fisheries Committee has carefully scrutinized each application for a waiver and we are satisfied that they are justified.

Mr. Speaker, again, I want to compliment our distinguished colleague, HELEN BENTLEY, for her tireless commitment on behalf of the forgotten patriots of America's World War II merchant marine.

I urge the overwhelming adoption of this bill and reserve the balance of my time.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, H.R. 58 is a noncontroversial piece of legislation which is important to many American veterans across the country and I want to thank the Merchant Marine and Fisheries Committee leadership—Chairman STUDDS, Representatives FIELDS, LIPINSKI, and BATEMAN—for helping to bring this legislation to the floor. Merchant Marine and Fisheries Committee members and staff all share a cordial, bipartisan relationship which is unmatched in Congress.

Like the struggle to rid Europe of Nazi tyranny during the Second World War, the endeavor to guide H.R. 58 through this legislative maze we call the House of Representatives was an allied effort and I again thank the committee for their assistance and bipartisan team work.

Mr. Speaker, H.R. 58 is aimed at assisting three historic World War II *Liberty/Victory*-class ships—the SS *John W. Brown* of Baltimore, the SS *Jeremiah O'Brien* of San Francisco, and the SS *Lane Victory* of San Pedro, CA—to serve rightfully as the centerpiece of America's contribution to the magnificent commemorative celebration that will mark the 50th anniversary of "D-Day" at Normandy, France, on June 6, 1994.

It is only fitting, Mr. Speaker, that with the thousands of veterans in attendance, representatives of the once 3,300 strong *Liberty* and *Victory* class merchant fleet, built between 1941 to 1945, and which so proudly transported the fighting men of America to the beaches of northern France be included.

During World War II, the U.S. Merchant Marine suffered the greatest casualty rate, second only to the U.S. Marine Corps. More than 200 *Liberty* and *Victory* ships were sunk and hundreds of Merchant Mariners and Navy armed guard crewmen aboard were killed. In fact, without these *Liberty* and *Victory* ships, including those who served aboard them, there probably would have never been a Normandy invasion—nor a victory in World War II.

With this in mind, Mr. Speaker, H.R. 58 authorizes the transfer of two obsolete vessels in the National Defense Reserve Fleet [NDRF] to each organization which maintains and operates one of these World War II merchant ships. These organizations, in turn, will scrap and sell their NDRF ships and use the proceeds to refurbish each historic treasure in order that she will be made seaworthy for the trans-Atlantic voyage to Normandy. Each will be manned by crews of volunteers, many of whom have contributed tens of thousands of volunteer hours restoring the interiors of these vessels.

In conclusion, Mr. Speaker, let me stress that this is a superb way to pay homage to the millions of Americans who did their part for the liberation of Europe during the Second World War.

For the RECORD I include the following articles:

ACTION ON THE NORTH ATLANTIC—1994—THE NORMANDY CONVOY

D-DAY

The greatest armada in history was assembled by the Allies in June of 1944, as they breached Hitler's Atlantic Wall. Never again will the world see such a gathering of ships!

Soon in commemoration of the 50th Anniversary of this great Allied Victory, a magnificent celebration will be held on the beaches of Normandy.

As a part of that celebration, the volunteer crews of the three living, steaming, World War II Merchant Marine Memorials, S.S. JOHN W. BROWN, S.S. JEREMIAH O'BRIEN and S.S. LANE VICTORY, are planning a voyage, in convoy, to Europe and the invasion beaches.

This "Last World War II Convoy" will commemorate the vital role played by the United States in winning of the War and will help remind the people of Europe that the American Spirit that won the Second World War is still alive!

To help make this voyage a reality you can: Sign on as a volunteer crew member; Become a Corporate Sponsor, earning an opportunity to showcase your company's products aboard the vessels as they tour Europe after the Normandy Commemoration; Support the effort with your contribution.

THE NORMANDY COMMEMORATION

The activities surrounding the commemoration of D-Day are one of the most significant of the entire series of WW II 50th anniversary ceremonies. Thousands of people will be travelling to England and France to participate in these activities, including the heads of state from all the Allied countries. D-Day was the most important invasion of the entire war and the commemoration is being planned accordingly.

Hundreds of Liberty and Victory Ships participated in the Normandy Invasion and the build-up of supplies that led to it. Without the vast armada of merchant ships that carried the cargo across the Atlantic, there could have been no invasion. One of the three historic ships, JEREMIAH O'BRIEN, was herself a participant in the invasion. She made ten trips across the channel from England to France with thousands of tons of war supplies for American and British troops fighting their way inland.

Many merchant ships were sunk during and after the invasion. A number of damaged Liberty Ships were used to form the "Gooseberry" artificial breakwater that was built off Omaha Beach to shelter the discharging vessels.

The gathering of ships and men at Normandy is far more than a reunion of old sailors. It is a celebration of the American spirit, a demonstration of what Americans can do when the chips are down, proof that we can build things that last and a reminder to our Allies just who it was that won the Second World War.

This trip can focus the eyes of the world on an America in celebration, not a country whose guts are being torn out by drugs, by violence and by economic failure. When the Liberty Ships sailed, the American Spirit rode high. And we can do it again!

The Broomfield-Wyden Bill calling for the scrapping of WW II tonnage allows for the sinking of up to 15 of these ships as artificial fish reefs. The U. S. Treasury certainly nets nothing from the sinking of such ships. Far better to use the proceeds from the scrapping of six of them to enable our merchant marine memorials to represent America off the beaches of France in 1994. Remember that these ships are large, more than 400' long. They have ample display spaces in their 'tween decks that can be used for displays of all kinds. They can be floating goodwill ambassadors for America, promoting our country in any number of possible ways.

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SS JOHN W. BROWN SCHEDULED TO MAKE '94 ATLANTIC VOYAGE

(By Paul W. Valentine)

BALTIMORE—The SS John W. Brown, a World War II Liberty ship, rests here, recovering from half a century of use and abuse while hundreds of volunteer workers race to ready it for a 1994 rendezvous with remembrance.

If all goes as organizers hope, the John W. Brown will sail under its own steam to France in spring 1994 to join other craft in observing the 50th anniversary of the Allied invasion of Europe at Normandy.

Dozens of Marylanders who are helping to restore the ship expect to be aboard.

"We're very optimistic we'll make it," said John W. Boylston, president of the Baltimore-based Project Liberty Ship.

Formidable hurdles remain, including raising $2.7 million to finish the restoration work and pay for fuel and food for the 1994 trip.

"This is a herculean feat," he said.

The John W. Brown, named after an early 20th century labor leader, is one of only two Liberty ships remaining from the 2,700-ship fleet of squat 10,500-ton-capacity cargo carriers that were mass-produced in Baltimore and other ports on a crash basis to ferry troops, supplies and equipment to Europe and the Pacific during World War II.

More than 200 were sunk by enemy bombs, mines and torpedoes. Hundreds of U.S. Merchant Marine seamen and Navy armed guard crewmen were killed aboard them.

After the war, most of the remaining Liberty ships were sold for scrap after being mothballed for years in Norfolk.

The other surviving Liberty ship is the SS Jeremiah O'Brien, which has been restored and is now anchored in San Francisco as a museum.

Organizers here have similar long-range plans for the John W. Brown, but for the moment all energies are directed at getting the ship to Europe in 1994.

Much has already been done. The 19-foot-high, 270,000-pound engine is in working order again. The bridge, crew's quarters, galley, gun turrets and other features are being restored to their original appearance.

About 2,000 rivets have been replaced in the Brown's steel bottom, where some corrosion had occurred. But 10,000 still have to be replaced in the 441-foot-long hull before the Brown can be certified by maritime regulators as "ocean-worthy," according to Boylston. It is an expensive task, he said, that requires putting the ship in dry dock.

The interior restoration work—wiring, carpentry, metal work, painting—is done largely by skilled volunteers who have put in more than 150,000 hours since Project Liberty Ship acquired the Brown for free from the Maritime Administration in 1988 after it had been used as a floating high school in New York for more than 30 years.

"I'm having a lot of fun," said Edwin Moran, 74, of Clinton, a retired carpenter who is building walls and oak bunks in the forecastle, where the Navy gunners' living quarters were. The bunks and several of the walls, called bulkheads, had been ripped when it was used as a school. Moran, going by original blueprints and using wood and bronze hardware cannibalized from a junked Liberty ship in Norfolk, is painstakingly restoring the forecastle to its former appearance.

"We're striving for authenticity," said Moran, a former Merchant Marine seaman who drives almost every Wednesday and Saturday from Prince George's County to work on the Brown, moored two miles east of Baltimore's Inner Harbor.

When the restoration is done, he said, the Brown, "will be a living, steaming memorial."

Another feature of the Brown will be an on-board library with more than 1,000 volumes on naval engineering, the Merchant Marine and "pretty much anything to do with World War II," said Dave Aldworth, 55, of Severna Park, a computer consultant and the Brown's librarian.

Boylston, 53, of Solomons, a naval architect, said Project Liberty Ship has about 2,500 members and supporters, of whom about 500 do most of the volunteer work on the ship. The project has raised $1.7 million, most of it in private contributions, since 1988 to help pay for sandblasting, dry dock work and other tasks beyond the ability of the volunteers.

In addition, he said, the project has received an estimated $2.5 million to $3.5 million in "in-kind donations" of engine parts, paint, rope (called "line" in Navy parlance) and other items.

Still, he said, the Brown needs $2.7 million to complete the restoration, meet seaworthiness standards and pay for fuel and food when the ship goes to Europe in 1994. He estimated that fuel alone will cost $7,000,000, noting that the Brown is scheduled to go not only to Normandy but to 42 other European ports in a series of goodwill calls.

In addition to private contributions, Boylston said, Rep. Helen Delich Bentley (R-Md.) is pushing legislation to have two mothballed cargo ships in Norfolk sold for scrap with the proceeds going to the Brown, as well as the Jeremiah O'Brien and a third World War II-vintage cargo craft, the SS Lane Victory, two other ships scheduled to make the 1994 transatlantic voyage.

The legislation not only would bring in an estimated $700,000 for the Brown, Boylston said, but would "give us more credibility" in soliciting loans and private contributions.

He said the project also plans to sell trade show space on board the Brown for U.S. companies to exhibit products as the ship stops at European ports of call after the Normandy observances.

"This is not going to be just an old sailors' romp," Boylston said. ". . . We want to remind the world of the U.S. contribution to the Allied victory in Europe."

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HOW WARS ARE WON

(By Jack L. Levin)

On Baltimore's waterfront, the Fairfield section is very quiet now. You can almost hear the summer breeze blowing in from the Patapsco.

Fifty years ago, it was a round-the-clock, seven-days-a-week bedlam of riveting hammers pounding red-hot rivets into steel plates, a cacophony of mechanical hubbub, whistles, fog horns and the yelling and cursing of sweaty workers struggling with unaccustomed tasks—business and professional

people developing blisters and callouses on soft, unskilled hands.

One distinctive sound in the din was the wailing ambulance siren as yet another hapless victim was rushed to the infirmary or hospital. Strange, heavy tools became deadly weapons in the clumsily clutches of eager amateurs. In the early days of the war, shipyard casualties rivaled those on the battlefield.

Out of this chaos, in the late fall of 1941, was born at last the first Liberty Ship, the Patrick Henry. It was Fairfield's first response to the arrogance and belligerence of the Axis powers. We who had slogged through a gray, grinding Depression felt our hearts pounding. Until then, our only patriotic excitement had been on the Fourth of July, celebrating the victories of earlier achievers. This was our victory!

This first launching of the ships that would carry the war to America's enemies, and help to finish what they had started, lighted our sky as no fireworks had ever done.

For many of us, the launching was the most memorable event of our routine lives. We wildly cheered the speeches of shipyard officials. We had goose bumps as the skids were knocked out, the first champagne bottle smashed against its bow and the Patrick Henry slid majestically down the greased ways. We forgot the gripes and the pain the rising at 4 a.m., the dashing half asleep to meet our rides, the lunching in the company of rats scurrying under the hulls, the aching joints and muscles, the interminable monotony of seven-day weeks of mind-numbing labor.

But the mounting frequency of exhilarating launchings made it all worthwhile.

Production revved up to overdrive after Pearl Harbor. President Franklin D. Roosevelt, who had called the slow-moving vessels "ugly ducklings," renamed them "Liberty Ships" because he pledged that they would "liberate the world." Our fighters did that job, of course, but our workers surely helped.

Great flocks of the ugly ducklings were born into the waters of the Patapsco. On Sept. 7, 1942, nine months to the day after Pearl Harbor, came the John Brown, which is now on display as a museum ship at a pier on Clinton Street. It was one of 384 Liberty Ships launched at Fairfield—more than any produced at any shipyard in the nation. Altogether, the yards turned out 3,710 ships, build and crewed by civilians, they carried two-thirds of all essential cargo to Allied forces. Nearly 200 were torpedoed by U-boats, but the Nazis could not sink them as fast as we could build them.

It took 42 days to build the John Brown, but by the end of the war Fairfield was mass-producing a ship a week. It was not only Fairfield workers and management who achieved this miracle of productivity; it was also the workers and management at all the industries which supplied the thousands of tons of materials used—from rivets, nuts, bolts and welding rods to heavy steel plates and huge ships' engines.

The only thing we nearly ran out of was names for the ships. John W. Brown was a little-known labor union leader; other uncelebrated civilians had to be dug out of obscurity for moments of glory. But nothing slowed the pace in the 18 yards producing Liberty Ships.

At shipyards like Bethlehem's, at airplane plants like Glenn Martin and in bustling factories from coast to coast, America praised the Lord and passed the ammunition to those fighting in the armies on two sides of the world.

Wages were adequate, not lavish. With shortages and rationing of many commodities, the standard of living was no consumer's paradise. But morale was high; no burnout, no malaise. We were confident of eventual victory. We gave it the highest priority and threw ourselves entirely into the task of waging the war as well on the home front as on the battlefront.

Today, too, as headlines and newscasts keep reminding us, we are at war—against drugs, poverty, hunger, crime, disease and pollution. These enemies lack the personified evil of Hitler, Hirohito and Mussolini, but their threats to our survival are as real. We are good at declaring these wars, but not very good at fighting them. Where are the emergency measures? The War Bonds? The planning of production? The rationing of resources? The setting of priorities in finance, labor and education to assure concentration on winning?

Counting all those, especially children, who are dying of malnutrition, drug overdoses, street violence, AIDS and gun slaughter, American losses in these wars must exceed those in the most destructive war in history.

We won that war by will, determination, steadfast commitment and readiness to pay the price of victory. Only by such unconditional, uncompromising effort can we triumph over present enemies.

In 1992 as in 1942, we can again dream of victory over formidable enemies which threaten not just "them" but also "us."

As Theodor Herzl, the founder of Zionism, said, "If you will, it is no dream."

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, H.R. 58, the Merchant Marine Memorial Enhancement Act of 1993 calls for the transfer of six National Defense Reserve Fleet vessels scheduled for scrapping to three nonprofit organizations which maintain maritime memorials.

The memorials are the *Jeremiah O'Brien*, San Francisco, CA; the *John W. Brown*, Baltimore, MD; and the *Lane Victory*, San Pedro, CA.

These memorial vessels are now being made seaworthy in order to take part in reenactment ceremonies to commemorate the 50th Anniversary of the Invasion of Normandy on June 6, 1994.

Thousands of hours of volunteer labor have gone into renovating the three ships.

But the riveting, welding, and dry-dock work needed to assure the vessels' integrity is beyond the volunteer workers ability.

The money to be raised by the scrapping of six NDRF vessels would be used to pay for this skilled repair work.

The bill requires that proceeds from scrapping the NDRF vessels be used for refurbishing the vessels and that unused proceeds be returned to the Federal Government.

It is important for these vessels to participate in the anniversary ceremonies.

The U.S. Merchant Marine played a pivotal role in our victory in World War II. Without the merchant marine, there could not have been an invasion of Normandy.

It is only fitting that these three memorials represent the hundreds of seamen who lost their lives in the fight for their country.

H.R. 58, as amended also contains several Jones Act waivers for private vessels.

Many of these waivers have already been passed by the House as part of other legislation.

For reasons of hardship or problems with the chain of title, these vessels need to be awarded waivers to operate in U.S. coastwise trade.

The Committee on Merchant Marine and Fisheries has reviewed these bills and reported them favorably.

I urge my colleagues to vote for this legislation.

Ms. HARMAN. Mr. Speaker, during this century's wars, our soldiers crossed the oceans to defend our country in times of need. They traveled those seas on ships operated by the brave civilians of the merchant marine, who often lost their lives on the dangerous oceans of war.

When we entered World War II, our country needed more ships, and we embarked on a magnificent effort to build thousands of vessels to carry materiel and troops to the theaters of war. They were known as liberty and victory ships.

In recent years, nonprofit associations have worked to save three of these ships as National Historical Landmarks so that their contribution to our Nation's history will be preserved. In my district, I am fortunate to have the SS *Lane Victory* built in 1945 and named for a college founded by a former slave in Tennessee. The *Lane Victory* served in W.W. II, then went on to play roles in the Korean and Vietnam wars. On December 5, 1950, the *Lane Victory* rescued over 7,000 Koreans, men, women, and children, from the horrors of war.

More than 100,000 hours have been devoted to restoring the *Lane Victory* by a dedicated group of veterans and enthusiasts. However, the tasks that remain cannot be done by volunteers. H.R. 58 will help these volunteers to restore the *Lane Victory*, the *Jeremiah O'Brien*, and the *John W. Brown*, without an appropriation and without any addition to the national debt. This bill authorizes the transfer of two obsolete vessels in the National Defense Reserve Force to the volunteer groups to be sold for scrap.

We must move quickly on this effort. On June 6, 1994, a multinational celebration of D-day will take place in Normandy, as a way to remember our past and honor those who served our nation in World War II. Our three liberty/victory ships will be the centerpiece of our contribution to that celebration. I urge my colleagues to support our participation in the commemoration of D-day, and to help keep open the liberty/victory ships as continuing memorials to the outstanding contributions made by our merchant marine.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 58, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## UNITED STATES-FLAG PASSENGER VESSEL ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1250) to amend the coastwise trade laws to clarify their application to certain passenger vessels as amended.

The Clerk read as follows:

H.R. 1250

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States-Flag Passenger Vessel Act of 1993".

**SEC. 2. COASTWISE TRANSPORTATION OF PASSENGERS.**

(a) IN GENERAL.—Section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), is amended to read as follows:

**"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS**

(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade; and

"(2) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'coastwise trade' includes—

"(A) transportation of a passenger from a place in any State or possession of the United States and returning to that place, if during that transportation no passenger departs from the vessel in a foreign country; and

"(B) transportation of a passenger between points in the United States, either directly or by way of a foreign port; and

"(2) the term 'passenger' does not include a travel agent on a voyage if—

"(A) the purpose of the voyage is to promote future trips on the vessel;

"(B) money is not paid to the vessel owner or charterer for the voyage; and

"(C) the voyage goes beyond the territorial sea of the United States.".

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), an ineligible vessel may engage in transport of passengers in coastwise trade (as those terms are defined in that amendment) on a trade route, if—

(A) The vessel engaged, in the period beginning January 1, 1990, and ending March 9, 1993, in transport of passengers in coastwise trade on that trade route; and

(B) within one year after the date of the enactment of this Act, the owner files with the Secretary of Transportation an affidavit certifying compliance with subparagraph (A) and listing each trade route on which the vessel engaged in transport of passengers in coastwise trade in the period described in subparagraph (A).

(2) SCHEDULED EXPIRATION OF EXCEPTION.—Paragraph (1) does not apply to an ineligible vessel after the later of—

(A) January 1, 2000,

(B) the date that is 15 years after the date of completion of construction of the vessel, or

(C) the date that is 15 years after the date of completion of any major conversion of the vessel that is begun before the date of the enactment of this Act.

(3) EXPIRATION OF EXCEPTION FOR FAILURE TO RECREW.—Paragraph (1) does not apply to an ineligible vessel after the date that is 5 years after the date of the enactment of this Act, unless—

(A) each individual employed on the vessel after the one-year period beginning on the date of the enactment of this Act is either a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

(B) not more than 25 percent of the total number of individuals employed on the vessel after the one-year period beginning on the date of the enactment of this Act are aliens lawfully admitted to the United States for permanent residence.

(4) TERMINATION OF EXCEPTION UPON ENTRY OF REPLACEMENT.—Paragraph (1) does not apply to an ineligible vessel with respect to a trade route after the date of the entry into service on that trade route of an eligible vessel, if—

(A) the eligible vessel has a passenger carrying capacity that is equal to at least 75 percent of the passenger carrying capacity of the ineligible vessel, as determined by the Secretary of the Department in which the Coast Guard is operating;

(B) the person that is the owner or charterer of the eligible vessel submits to the Secretary of Transportation, by not later than 270 days before the date of that entry into service—

(i) a notice of the intent of the person to enter into that service; and

(ii) such evidence as the Secretary may require that the person is offering and advertising that service;

(C) any individual employed on the ineligible vessel after the one-year period beginning on the date of the enactment of this Act—

(i) is not a citizen of the United States; and

(ii) is not an alien lawfully admitted to the United States for permanent residence; and

(D) more than 25 percent of the total number of individuals employed on the ineligible vessel after the one-year period beginning on the date of the enactment of this Act are aliens lawfully admitted to the United States for permanent residence.

(5) TERMINATION OF EXCEPTION UPON SALE OF VESSEL.—Paragraph (1) does not apply to an ineligible vessel after any date on which the vessel is sold after the date of the enactment of this Act.

(6) DEFINITIONS.—In this subsection—

(A) the term "eligible vessel" means a vessel that is eligible under chapter 121 of title 46, United States Code, for a certificate of documentation authorizing the vessel to engage in coastwise trade;

(B) the term "ineligible vessel" means a vessel that is not eligible under chapter 121 of title 46, United States Code, for a certificate of documentation authorizing the vessel to engage in coastwise trade; and

(C) the term "major conversion" has the meaning that term has under section 2101 of title 46, United States Code.

**SEC. 3. DOCUMENTATION OF VESSELS.**

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue certificates of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) Emerald Princess (former United States official number 530095).

(2) Europa Star (former United States official number 588270).

(3) Europa Sun (former United States official number 596656).

(b) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel M/V Helton Voyager (Spanish registration lista 2A-Folio-592) if—

(1) the person documenting the vessel entered a contract before May 21, 1992, to purchase the vessel;

(2) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard under a contract signed before January 1, 1994;

(3) the cost of the major conversion is more than the value of the vessel before the major conversion; and

(4) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before January 1, 1995.

(c) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade, for the vessel M/V Twin Drill (Panama official number 8536-PEXT-2) if—

(1) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard;

(2) the cost of the major conversion is more than 3 times the purchase value of the vessel before the major conversion;

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, 1995; and

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater passenger capacity within 12 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract, which vessel shall also be documented under chapter 121 of title 46, United States Code.

(d)(1) The vessel Star of Texas (Lloyds register number L5103936) may engage in coastwise trade (as defined in section 8(c)(1)(A) of the Act of June 19, 1886, as amended by this Act) out of the Port of Galveston during the 5-year period beginning on the date of the enactment of this Act, if during the period beginning 30 days after that date of enactment and ending 5 years after that date of enactment—

(A) at least 60 employees engaged on the vessel are United States citizens;

(B) of the employees engaged on the vessel who are United States citizens, at least 60 are proficient in lifeboat training, firefighting, and vessel evacuation under standards certified by the United States Coast Guard;

(C) all repairs and alterations to the vessel are done in United States shipyards;

(D) the vessel is a United States documented vessel before the end of that period; and

(E) all other employees are instructed in basic safety techniques.

(2) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, and subject to paragraph (1), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade in the period described in paragraph (1) for a vessel described in that paragraph.

**SEC. 4. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.**

Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—A voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of, respectively, a segment—

"(i) that begins and ends in the same State or possession of the United States;

"(ii) that is part of a voyage to another State or possession of the United States or to a foreign country; and

"(iii) in which the vessel reaches the other State or possession of the United States or the foreign country within 3 days after leaving the State or possession of the United States in which the segment begins.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume. H.R. 1250, the United States-Flag Passenger Vessel Act of 1993 has one overriding purpose: to close a longstanding loophole in our coastwise trade laws. Under present law, a vessel that transports passengers between two points in the United States must fly the U.S. flag, be built in a U.S. shipyard, be owned by U.S. citizens, and be manned by U.S. personnel.

However, under an unusual interpretation by the Customs Service, if a vessel leaves a U.S. port, sails beyond the 3-mile territorial sea, and returns to the original port, then it can be foreign-flag, built in a subsidized foreign shipyard, owned by foreign citizens, and manned by low wage foreign personnel.

This is not only bizarre, but inherently unfair to American workers. The bill before us would make these so-called voyages-to-nowhere subject to our domestic shipping laws as are all other vessels that transport passengers in the United States.

The bill phases-out existing foreign-flag operations to mitigate the effect on the owners of these ships and on our ports which may have terminal agreements with these operators.

It allows certain foreign-flag vessels to reflag United States.

The bill means jobs for Americans—both on board ships and in our shipyards and I would like to thank the gentleman from Mississippi [Mr. TAYLOR] for his hard work on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 1250, the United States-Flag Passenger Vessel Act, introduced by Congressman GENE TAYLOR and cosponsored by several members of our committee.

This legislation is a revised version of a bill that was passed by the House of Representatives last year, but, due to matters beyond our control, was not enacted.

This bill represents a major step forward in providing American companies the opportunity to become involved in the extremely lucrative cruise-to-nowhere trade. These voyages, which are currently conducted exclusively by foreign-owned, foreign-flagged, and foreign-manned cruise ships, represent a significant economic growth potential for American maritime companies. As a result of administrative determinations—which the Members of the Merchant Marine and Fisheries Committee strenuously disagree with—the U.S. Customs Service has allowed these foreign ships to continue to operate.

We now have the ironic situation that if someone goes on a fishing trip out into the ocean, and returns to the port of departure, that fishing boat has to be U.S.-built and U.S.-owned. But if that same person gets on a cruise ship and spends the day eating, drinking, and gambling—rather than fishing—then the cruise ship can be foreign-built and foreign-owned.

Mr. Speaker, it is time for the Congress to eliminate this major loophole in our coastwise trade. H.R. 1250 would phase out foreign ships. It would allow the foreign-flag operators to continue to operate until January 1, 2000, or for 15 years after construction or a major conversion of a ship, if they place American merchant seamen onboard their ships. However, if they choose not to recrew the ships, their operations would have to cease after 5 years.

The bill would also allow a U.S. operator to enter a cruise-to-nowhere trade and bump out an existing foreign operator sooner than 5 years, if the foreign operator elects not to hire an American crew.

This bill also contains a provision allowing a company that signed a contract with a port in 1992 and has an existing vessel to operate cruise-to-nowhere trips for 5 years if the company agrees to certain manning and operating conditions.

In addition, H.R. 1250 would restore Jones Act privileges to several U.S.-built vessels that previously reflagged foreign in order to provide gambling to their passengers. Now that the Gambling Devices Act has been changed to allow gambling on U.S. ships, the owners of these ships want to return to the U.S. flag. In order for them to do so, we have to pass legislation allowing it.

I am aware that there is still some concern among the members of the Florida delegation that this bill is too restrictive and would eliminate foreign vessels before U.S. operators are ready to move into this trade. They are concerned that the economic impact on communities in south Florida could be severe. However, I believe the phaseout scheduled, coupled with the other provisions of the bill, should minimize the possibility of any major dislocations.

Mr. STUDDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I rise in support of H.R. 1250.

Mr. Speaker, this bill resolves a problem resulting from the passage last year of Public Law 102–251. That legislation permitted gambling aboard U.S.-flag cruise vessels. Unfortunately, an unintended consequence of that law is a potential disastrous loss of business for the cruise industry in California.

Many California cruises embark from one port and then stop at one or two other cities in the State on their way to a final destination in Mexico, Canada, or Alaska. California's legislature became concerned that allowing gaming on these cruises might result in the State being forced to also allow gaming under the Federal Indian gaming law. Consequently, the State assembly took advantage of their right under Public Law 102–251 to prohibit gambling on the intrastate segments of these cruises and did so.

As a result, many California cruise ship companies have bypassed—or are threatening to bypass—second and third ports of call within California. For instance, ships which once departed Los Angeles and called at Catalina or San Diego on their way to Mexico would no longer visit Catalina and San Diego. Mr. Speaker, while I served on the San Diego Port Commission, the port authority spent $5 million upgrading a cargo pier to a state-of-the-art cruise ship terminal. San Diegans are afraid that without this legislation we will see ships sailing past our port.

H.R. 1250 alleviates California's concerns with cruise ship gambling and the effects of the Indian gaming law and will allow our west coast cruise industry to thrive by establishing Federal regulation of these intrastate voyage segments. This bill will allow gambling in international waters when a ship will ultimately arrive at a foreign or out-of-state port within 72 hours. This will permit a California cruise vessel to make one or two ports of call within the State.

Mr. Speaker, this legislation was developed with the support and assistance of the Governor and the attorney general of California, and a resolution of support sponsored by San Diego Assemblywoman Dede Alpert is currently pending in the California General Assembly.

Mr. Speaker, I urge support of H.R. 1250.

Mr. LIPINSKI. Mr. Speaker, H.R. 1250, the United States-Flag Passenger Vessel Act of 1993, as amended, will close a loophole in our maritime laws.

Our coastwise trade laws require that all merchandise and passengers transported between two points in the United States be carried on vessels that are U.S.-flagged, U.S.-owned, and U.S.-built.

Presently, foreign-flagged and crewed vessels are sailing out of U.S. ports beyond the 3 mile international limit, and back to the same ports.

This is a clear violation of the intent of our coastwise trade laws.

This legislation will classify these voyages as coastwise trade and subject them to U.S.-built, -owned, and -crewed requirements.

As amended, the bill grants coastwise privileges to several vessels which were built or converted in the United States or have agreed to hire U.S. citizens to crew their vessel.

Mr. Speaker, United States-flag cruise operations cannot compete with foreign-flag operations as long as they are not required to meet American standards for safety and wages.

Foreign operations do not have to comply with strict U.S. regulations for construction standards, operating safety, environmental constraints, and, perhaps most importantly, crew wages and conditions.

Foreign lines can pay third world labor third world wages, undercutting U.S. operations which must meet minimum wage standards.

Mr. Speaker, I urge my colleagues to close this loophole being exploited by the foreign-flag cruise industry and pass this bill.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 1250, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 51, NEW COLUMBIA ADMISSION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendment made in order by this resolution and shall not exceed three hours equally divided and controlled by the chairman and ranking minority member of the Committee on the District of Columbia. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the District of Columbia now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. No amendment to the committee amendment in the nature of a substitute, as modified, and no other amendment to the bill shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. For purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 316 is a rule providing for the consideration of the bill H.R. 51, the New Columbia Admission Act. This resolution provides 3 hours of general debate to be equally divided between the chairman and ranking minority member of the District of Columbia Committee.

Mr. Speaker, under this rule no amendments to the bill are in order and after general debate expires Members will be able to vote up or down on the issue of statehood for the District of Columbia. This was the request of both Chairman STARK and the ranking member of the committee, Mr. BLILEY.

Mr. Speaker, never before has the issue of statehood for the District of Columbia been debated on this floor.

Admitting a new State into the union is a serious matter which should be debated in a thorough and thoughtful manner.

There are good arguments both for and against admitting the State of New Columbia into the Union, and under this rule Members will have adequate time to put forth their concerns.

Mr. Speaker, with the adoption of this resolution the House will enter into a historic debate.

I urge adoption of this resolution so that the House can proceed to debate on admitting New Columbia as our country's 51st State.

Mr. Speaker, at this time I yield for the purposes of debate only to the gentleman from Tennessee [Mr. QUILLEN.]

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I submit with my statement a comparative chart of open versus restrictive rules covering the 95th through the 102d Congresses and a separate chart of open versus restrictive rules for the 103d Congress.

As the gentleman from Massachusetts has explained, this is a closed rule. I am against it, and I am against the bill. Mr. Speaker, as we all know, statehood is a very serious matter and in fairness to all Members it should be considered under an open rule. In the Rules Committee last night, I offered a motion to provide for an open rule and it was defeated by a 6 to 4 party-line vote. As some of my colleagues will point out, there are many objections to this bill, and a closed rule does not provide for full consideration of those objections.

H.R. 51 creates a new State. It provides that the Federal Government continue to pay the District money that no other States receive, many of which have more land owned by the Federal Government than the District does. As my colleagues will bring to light, H.R. 51 also changes and violates several sections of our Constitution. Mr. Speaker, it remains a fact that the Founders of our country created the District of Columbia to be a Federal city, not a separate State.

Mr. Speaker, I rise in strong opposition to this rule, and I urge its defeat. I also urge defeat of the bill, and I reserve the balance of my time.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

| Congress (years) | Total rules granted [1] | Open rules | | Restrictive rules | |
|---|---|---|---|---|---|
| | | Number | Percent [2] | Number | Percent [3] |
| 95th (1977–78) | 211 | 179 | 85 | 32 | 15 |
| 96th (1979–80) | 214 | 161 | 75 | 53 | 25 |
| 97th (1981–82) | 120 | 90 | 75 | 30 | 25 |
| 98th (1983–84) | 155 | 105 | 68 | 50 | 32 |
| 99th (1985–86) | 115 | 65 | 57 | 50 | 43 |
| 100th (1987–88) | 123 | 66 | 54 | 57 | 46 |
| 101st (1989–90) | 104 | 47 | 45 | 57 | 55 |
| 102d (1991–92) | 109 | 37 | 34 | 72 | 66 |

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

| Congress (years) | Total rules granted [1] | Open rules | | Restrictive rules | |
|---|---|---|---|---|---|
| | | Number | Percent [2] | Number | Percent [3] |
| 103d (1993–94) | 51 | 12 | 24 | 39 | 76 |

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 19, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

| Rule number date reported | Rule type | Bill number and subject | Amendments submitted | Amendments allowed | Disposition of rule and date |
|---|---|---|---|---|---|
| H. Res. 58, Feb. 2, 1993 | MC | H.R. 1: Family and medical leave | 30 (D–5; R–25) | 3 (D–0; R–3) | PQ: 246–176. A: 259–164. (Feb. 3, 1993). |
| H. Res. 59, Feb. 3, 1993 | MC | H.R. 2: National Voter Registration Act | 19 (D–1; R–18) | 1 (D–0; R–1) | PQ: 248–171. A: 249–170. (Feb. 4, 1993). |
| H. Res. 103, Feb. 23, 1993 | C | H.R. 920: Unemployment compensation | 7 (D–2; R–5) | 0 (D–0; R–0) | PQ: 243–172. A: 237–178. (Feb. 24, 1993). |
| H. Res. 106, Mar. 2, 1993 | MC | H.R. 20: Hatch Act amendments | 9 (D–1; R–8) | 3 (D–0; R–3) | PQ: 248–166. A: 249–163. (Mar. 3, 1993). |
| H. Res. 119, Mar. 9, 1993 | MC | H.R. 4: NIH Revitalization Act of 1993 | 13 (d–4; R–9) | 8 (D–3; R–5) | PQ: 247–170. A: 248–170. (Mar. 10, 1993). |
| H. Res. 132, Mar. 17, 1993 | MC | H.R. 1335: Emergency supplemental Appropriations | 37 (D–8; R–29) | 1(not submitted) (D–1; R–0) | A: 240–185. (Mar. 18, 1993). |
| H. Res. 133, Mar. 17, 1993 | MC | H. Con. Res. 64: Budget resolution | 14 (D–2; R–12) | 4 (1-D not submitted) (D–2; R–2) | PQ: 250–172. A: 251–172. (Mar. 18, 1993). |
| H. Res. 138, Mar. 23, 1993 | MC | H.R. 670: Family planning amendments | 20 (D–8; R–12) | 9 (D–4; R–5) | PQ: 252–164. A: 247–169. (Mar. 24, 1993). |
| H. Res. 147, Mar. 31, 1993 | C | H.R. 1430: Increase Public debt limit | 6 (D–1; R–5) | 0 (D–0; R–0) | PQ: 244–168. A: 242–170. (Apr. 1, 1993). |
| H. Res. 149 Apr. 1, 1993 | MC | H.R. 1578: Expedited Rescission Act of 1993 | 8 (D–1; R–7) | 3 (D–1; R–2) | A: 212–208. (Apr. 28, 1993). |
| H. Res. 164, May 4, 1993 | O | H.R. 820: Nate Competitiveness Act | NA | NA | A: Voice Vote. (May 5, 1993). |
| H. Res. 171, May 18, 1993 | O | H.R. 873: Gallatin Range Act of 1993 | NA | NA | A: Voice Vote. (May 20, 1993). |
| H. Res. 172, May 18, 1993 | O | H.R. 1159: Passenger Vessel Safety Act | NA | NA | A: 308–0 (May 24, 1993). |
| H. Res. 173 May 18, 1993 | MC | S.J. Res. 45: United States forces in Somalia | 6 (D–1; R–5) | 6 (D–1; R–5) | A: Voice Vote (May 20, 1993) |
| H. Res. 183, May 25, 1993 | O | H.R. 2244: 2d supplemental appropriations | NA | NA | A: 251–174. (May 26, 1993). |
| H. Res. 186, May 27, 1993 | MC | H.R. 2264: Omnibus budget reconciliation | 51 (D–19; R–32) | 8 (D–7; R–1) | PQ: 252–178. A: 236–194 (May 27, 1993). |
| H. Res. 192, June 9, 1993 | MC | H.R. 2348: Legislative branch appropriations | 50 (D–6; R–44) | 6 (D–3; R–3) | PQ: 240–177. A: 226–185. (June 10, 1993). |
| H. Res. 193, June 10, 1993 | O | H.R. 2200: NASA authorization | NA | NA | A: Voice Vote. (June 14, 1993). |
| H. Res. 195, June 14, 1993 | MC | H.R. 5: Striker replacement | 7 (D–4; R–3) | 2 (D–1; R–1) | A: 244–176.. (June 15, 1993). |
| H. Res. 197, June 15, 1993 | MO | H.R. 2333: State Department, H.R. 2404: Foreign aid | 53 (D–20; R–33) | 27 (D–12; R–15) | A: 294–129. (June 16, 1993). |
| H. Res. 199, June 16, 1993 | C | H.R. 1876: Ext. of "Fast Track" | NA | NA | A: Voice Vote. (June 22, 1993). |
| H. Res. 200, June 16, 1993 | MC | H.R. 2295: Foreign operations appropriations | 33 (D–11; R–22) | 5 (D–1; R–4) | A: 263–160. (June 17, 1993). |
| H. Res. 201, June 17, 1993 | O | H.R. 2403: Treasury-postal appropriations | NA | NA | A: Voice Vote. (June 17, 1993). |
| H. Res. 203, June 22, 1993 | MO | H.R. 2445: Energy and Water appropriations | NA | NA | A: Voice Vote. (June 23, 1993). |
| H. Res. 206, June 23, 1993 | O | H.R. 2150: Coast Guard authorization | NA | NA | A: 401–0. (July 30, 1993). |
| H. Res. 217, July 14, 1993 | MO | H.R. 2010: National Service Trust Act | NA | NA | A: 261–164. (July 21, 1993). |
| H. Res. 218, July 20, 1993 | O | H.R. 2530: BLM authorization, fiscal year 1994–95 | NA | NA | |
| H. Res. 220, July 21, 1993 | MC | H.R. 2667: Disaster assistance supplemental | 14 (D–8; R–6) | 2 (D–2; R–0) | PQ: 245–178. F: 205–216. (July 22, 1993). |
| H. Res. 226, July 23, 1993 | MC | H.R. 2667: Disaster assistance supplemental | 15 (D–8; R–7) | 2 (D–2; R–0) | A: 224–205. (July 27, 1993). |
| H. Res. 229, July 28, 1993 | MO | H.R. 2330: Intelligence Authority Act, fiscal year 1994 | NA | NA | A: Voice Vote. (Aug. 3, 1993). |
| H. Res. 230, July 28, 1993 | O | H.R. 1964: Maritime Administration authority | NA | NA | A: Voice Vote. (July 29, 1993). |
| H. Res. 246, Aug. 6, 1993 | MO | H.R. 2401: National Defense authority | 149 (D–109; R–40) | | A: 246–172. (Sept. 8, 1993). |
| H. Res. 248, Sept. 9, 1993 | MO | H.R. 2401: National defense authorization | | | PQ: 237–169. A: 234–169. (Sept. 13, 1993). |
| H. Res. 250, Sept. 13, 1993 | MC | H.R. 1340: RTC Completion Act | 12 (D–3; R–9) | 1 (D–1; R–0) | A: 213–191–1. (Sept. 14, 1993). |
| H. Res. 254, Sept. 22, 1993 | MO | H.R. 2401: National Defense authorization | | 91 (D–67; R–24) | A: 241–182. (Sept. 28, 1993). |
| H. Res. 262, Sept. 28, 1993 | O | H.R. 1845: National Biological Survey Act | NA | NA | A: 238–188 (10/06/93). |
| H. Res. 264, Sept. 28, 1993 | MC | H.R. 2351: Arts, humanities, museums | 7 (D–0; R–7) | 3 (D–0; R–3) | PQ: 240–185. A: 225–195. (Oct. 14, 1993). |
| H. Res. 265, Sept. 29, 1993 | MC | H.R. 3167: Unemployment compensation amendments | 3 (D–1; R–2) | 2 (D–1; R–1) | A: 239–150. (Oct. 15, 1993). |
| H. Res. 269, Oct. 6, 1993 | MO | H.R. 2739: Aviation infrastructure investment | N/A | N/A | A: Voice Vote. (Oct. 7, 1993). |
| H. Res. 273, Oct. 12, 1993 | MC | H.R. 3167: Unemployment compensation amendments | 3 (D–1; R–2) | 2 (D–1; R–1) | PQ: 235–187. F: 149–254. (Oct. 14, 1993). |
| H. Res. 274, Oct. 12, 1993 | MC | H.R. 1804: Goals 2000 Educate America Act | 15 (D–7; R–7; I–1) | 10 (D–7; R–3) | A: Voice Vote. (Oct. 13, 1993). |
| H. Res. 282, Oct. 20, 1993 | C | H.J. Res. 281: Continuing appropriations through Oct. 28, 1993 | N/A | N/A | A: Voice Vote. (Oct. 21, 1993). |
| H. Res. 286, Oct. 27, 1993 | O | H.R. 334: Lumbee Recognition Act | N/A | N/A | A: Voice Vote. (Oct. 28, 1993). |
| H. Res. 287, Oct. 27, 1993 | C | H.J. Res. 283: Continuing appropriations resolution | 1 (D–0; R–0) | 0 | A: 252–170. (Oct. 28, 1993). |
| H. Res. 289, Oct. 28, 1993 | O | H.R. 2151: Maritime Security Act of 1993 | N/A | N/A | A: Voice Vote. (Nov. 3, 1993). |
| H. Res. 293, Nov. 4, 1993 | MC | H. Con. Res. 170: Troop withdrawal Somalia | N/A | N/A | A: 390–8. (Nov. 8, 1993). |
| H. Res. 299, Nov. 8, 1993 | MO | H.R. 1036: Employee Retirement Act–1993 | 2 (D–1; R–1) | N/A | A: Voice Vote. (Nov. 9, 1993). |
| H. Res. 302, Nov. 9, 1993 | MC | H.R. 1025: Brady handgun bill | 17 (D–6; R–11) | 4 (D–1; R–3) | A: 238–182. (Nov. 10, 1993). |
| H. Res. 303, Nov. 9, 1993 | O | H.R. 322: Mineral exploration | N/A | N/A | A: Voice Vote. (Nov. 16, 1993). |
| H. Res. 304, Nov. 9, 1993 | C | H.J. Res. 288: Further CR, FY 1994 | N/A | N/A | |
| H. Res. 312, Nov. 17, 1993 | MC | H.R. 3425: EPA Cabinet Status | 27 (D–8; R–19) | 9 (D–1; R–8) | |
| H. Res. 313, Nov. 17, 1993 | MC | H.R. 796: Freedom Access to Clinics | 15 (D–9; R–6) | 4 (D–1; R–3) | A: 233–192. (Nov. 18, 1993). |
| H. Res. 314, Nov. 17, 1993 | MC | H.R. 3351: Alt Methods Young Offenders | 21 (D–7; R–14) | 6 (D–3; R–3) | A: 238–179. (Nov. 19, 1993). |
| H. Res. 316, Nov. 19, 1993 | C | H.R. 51: D.C. statehood bill | 1 (D–1; R–0) | N/A | |

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 51, NEW COLUMBIA ADMISSION ACT

1. Open rule—This amendment to the proposed rule provides for a 3-hour, open rule for the consideration of H.R. 51, the "New Columbia Admission Act," and makes the District Committee's amendment in the nature of a substitute in order as an original bill for the purpose of amendment under the five-minute rule. All points of order against the substitute are waived.

Vote (Defeated 4–6): Yeas—Solomon, Quillen, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not voting: Bonior, Hall, Gordon.

2. Adoption of rule—

Vote (Adopted 6–4): Yeas—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter; Nays—Solomon, Quillen, Dreier, Goss. Not voting: Bonior, Hall, Gordon.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Tennessee for yielding time to me, and I rise in strong opposition to this unjustified closed rule.

Let me just say this: When the House gets so close to adjournment that we can count the hours, we better keep a sharp eye out for all sorts of far-out legislation.

This D.C. statehood is one example of that kind of legislation. And this rule, I am afraid, makes a bad bill even worse.

Each time a closed rule is foisted on the House, Members of Congress are denied the opportunity to represent their constituents. It is ironic that a bill which, proponents argue, seeks to provide representation to citizens of the District, is being considered in a manner which disenfranchises all the citizens of the United States.

Mr. Speaker, under House rules, a D.C. statehood bill does not even need a rule. District business, according to clause 8 of rule 14, is privileged on the second and fourth Mondays of each month. The House, under this procedure, could resolve itself into the Committee of the Whole, and proceed with general debate.

Then the bill would be open to amendment under the 5-minute rule. That is by the rules of the House. That is the way it should be. But what is happening today is something entirely different. D.C. statehood proponents have stampeded this bill here to the floor on short notice and they have

gagged the opposition in the process. This rule provides for only 3 hours of debate and no amendments.

Can Members believe it? The House is going to vote on whether to provide statehood for the District of Columbia without any real debate and no amendment process? That is unbelievable.

Furthermore, this rule contains a self-executing provision which strikes the provisions in the bill, listen to this, providing for expedited procedures in the House to repeal the 23d amendment to the Constitution.

We're talking about amending the Constitution here with no debate. Where is the deliberation, the discussion, and the careful debate on this? It has been drowned out by the protestors' chants.

Mr. Speaker, the Committee on Rules should assert its jurisdiction. It should have held hearings on this important matter. A self-executing rule is not the answer.

Mr. Speaker, let me just sum up by saying that I've served in the House for 15 years and the number of closed rules on important pieces of legislation has skyrocketed in the last 3 years. Let me just inform the Members of some history on how D.C. statehood, business has been considered by the House—before my time.

The special rule that provided for consideration of a D.C. home rule bill in 1973 was an open rule with 4 hours of general debate. Four significant substitute amendments were made in order, and amendments to the substitute were not precluded. What a difference that was from the rule before us now.

Mr. Speaker, the House also considered statehood bills for Alaska and Hawaii under open amendment procedures, with lengthy debate. Why then should the House turn its back on these precedents, especially when there are so many constitutional questions raised by the notion of the District becoming a state?

Mr. Speaker, taking into consideration the rules of the House and the historical facts involved, the arguments for a closed rule on this bill do not hold up.

Mr. Speaker, I urge Members to defeat this rule and let the Rules Committee take it back. If there is merit to D.C. statehood, let those merits be expressed in open hearings and under an open amendment process on the floor.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York is right. This bill does not provide for any amendments, but no one appeared before the authorizing committee or the Committee on Rules to ask for any amendments so it appears that no one wants any amendments.

Under the rules of the House special days are provided for the consideration of District of Columbia business. These days, known as D.C. days, are available on the second and fourth Mondays of each month.

The reason this bill is not being considered under such a procedure is simply a matter of timing. On the second Monday of this month this bill had not yet been reported by the District of Columbia Committee.

The fourth Monday of this month is this coming Monday when the House will be close to adjourning this session and we have quite a full plate of business. The House is scheduled to debate campaign finance reform, lobbying reform, reinventing government legislation and a recessions package.

In the interest of completing all of this business before the Thanksgiving holiday I believe that bringing up this bill today is the wisest course of action. Bringing it up on Monday will only further delay Members from being with their families over Thanksgiving.

Section 208 of H.R. 51, as reported by the District of Columbia Committee, contains expedited procedures in both the House and Senate for the repeal of the 23d amendment. This section clearly falls under the jurisdiction of the Rules Committee.

However, the committee was not given a sequential referral of the bill.

As the session comes to a close in the next few days we all know that floor time becomes very tight.

Therefore, rather than request a referral from the Speaker which would certainly hold this bill up another day, the committee adopted a resolution which self-executes an amendment eliminating these procedures in the House. The amendment does not affect the procedures in the Senate.

If the repeal of the 23d amendment becomes necessary at a future date, the committee of jurisdiction can seek a rule from the Rules Committee to debate and vote on the procedure for its repeal.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY]

□ 1510

Mr. BLILEY. Mr. Speaker, I support this request for a rule with 3 hours of debate. This is no usual piece of legislation, it is a bill to admit 95 percent of the Nation's capital as a State.

I oppose H.R. 51. I believe that a State cannot be created out of the Nation's capital without amending the Constitution. Statehood advocates are simply wrong in their analysis. No State has faced the impediments of three provisions in the Constitution. The other 37 States were admitted under article four of the Constitution. The District of Columbia is the only article one territory in the United States. There is no precedent which applies to the admission of the District of Columbia as a State through simple legislation. Thirty years ago today, Attorney General Robert Kennedy told the House Committee on the District of Columbia that the status of the Nation's capital can be changed only through a constitutional amendment. For 30 years, through Democratic and Republican administrations alike, that position has not changed, even under the new administration.

I believe that the bill itself is fatally flawed in many ways and cannot be corrected. Republicans offered a number of amendments in subcommittee and full committee markups. But frankly, there are so many problems with the bill, it makes little sense to try to amend the bill in just a few areas now in the last hours of this session.

H.R. 51 is not the vehicle to address Congress's concerns about crime, or poor schools, or poor management in the District. Such amendments would not be germane. Moreover, amendments which place conditions on admission are unconstitutional under the 1910 Supreme Court decision, Coyle versus Smith. Amendments seeking to put conditions on New Columbia are ultimately unenforceable.

I believe that statehood proponents have failed to provide for a coequal State and that is one of the many reasons for my opposition. H.R. 51 contains provisions which are unconstitutional such as the taking of a scenic easement over the entire State. This provision would be struck down but would not invalidate New Columbia's admission. Correcting flaws such as this will not make the bill acceptable.

Let me also say that this rule is to consider a bill, not a nonbinding resolution. There is a lot of talking going around that the vote on H.R. 51 is only endorsing a principle. That is nonsense. The Committee on the District of Columbia has worked on statehood legislation for 10 years. We are not voting on a goal or a principle. This is not a resolution which would have no force of law. We are voting on a 38-page bill. If you vote for this bill, you will be voting for everything that is in it. And if you will listen to the debate on the bill, you will be shocked by some of the things that are in it. We are here to legislate, not to act on meaningless gestures.

For years, statehood advocates have been saying that admitting a State is an easy and simple matter. Don't be fooled. This is not like any other statehood matter.

This chart explains why. It details information about the borders of Washington, DC which proponents do not want you to know. This is one of the reasons why they are now saying this is a vote only on principle. It is because after 10 years of work, they cannot defend the bill before us.

Statehood advocates have said that they are merely reducing the size of

the Nation's capital. The Delegate from the District of Columbia has stood on this floor and told this House and all Americans that, "only the neighborhoods would become a part of New Columbia." This simply is not true.

On November 3, the committee adopted an amendment which has drastically altered this legislation and its effects on the Federal Government. I believe that it has been altered so drastically that the most ardent supporter of statehood cannot vote for this bill.

This amendment, offered without benefit of a full committee hearing, removed the bill's references to the National Capital Service Area and the inclusion of Federal property and buildings within the new seat of government those properties which are "affronting or abutting" the redefined District of Columbia. Delegate Norton explained that the previous provision in the bill would—and these are her words—"take the Federal enclave much deeper into the state than anyone could reasonably argue that those boundaries should go." This was presented as a reasonable amendment to ensure that the capital of the United States contains no "more area in the Federal enclave than is intended or necessary."

Twenty years ago, the 1973 Home Rule Act incorporated the boundary for the National Capital Service Area directly from the 1963 language. The Home Rule Act includes a more inclusive definition of the Federal enclave and a provision which says that "any Federal real property affronting or abutting * * * shall be deemed to be within such area." Since the first statehood bill was introduced in 1983, all statehood bills contained an inclusive reference to the National Capital Service Area and the "affronting or abutting" language.

When the committee considered statehood legislation in 1987, the National Capital Planning Commission informed us that the "affronting and abutting" language was ambiguous and needed further work. Over the next 6 years, nothing was done, and identical language—both as to the border of the new District of Columbia and that any Federal real property affronting or abutting was to be included in the Nation's Capital—continued to be included in statehood bills. When it was introduced in January of this year, H.R. 51 included this language also.

The majority's last-minute, purported solution to this was to remove the references to the National Capital Service Area and the "affronting or abutting" language from the bill entirely.

The capital of the United States is thus wholly contained within the boundaries specified in section 112(b) of the legislation without exception. As amended, H.R. 51 now does far more than shrink the seat of Government of the United States to less than one-tenth the size of Dulles Airport. H.R. 51 now hijacks part of all three branches of the Federal Government into the State of New Columbia and kidnaps thousands of Federal employees into the State.

This map shows the border as mandated by H.R. 51, as amended. The pages from the bill describing this boundary are attached at the bottom of the map. I will not take the time to read the entire description, but I urge all of my colleagues to examine this map.

I have traced the boundaries between Washington, DC and New Columbia. Beginning just west of the Kennedy Center, anything south of this line is in the seat of government; anything north of its is in New Columbia. Let us take a look at the map and see what happens. The General Services Administration is on the north side of E Street and hence is in New Columbia now. As we make our way over to the White House, we find the National Science Foundation, the International Monetary Fund, the Organization of American States, and the International Bank for Reconstruction and Development—all in New Columbia.

Going up and around 17th Street we see that on the west side, and, therefore in New Columbia are the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Labor Relations Board. The border runs along Pennsylvania Avenue and the north around Lafayette Park. Notice that the New Executive Office Building has been neatly hijacked into New Columbia. White House employees who work there will not only have to cross State lines to speak with their boss, but they will be subject to a New Columbia commuter tax while their fellow White House employees in the District of Columbia are not.

North and east of Lafayette Park—in New Columbia—are the United States Court of Claims—part of the Judicial Branch of the Federal Government—and the Department of Veteran's Affairs and the Treasury Department Annex. These Federal executive and judicial branch employees will be treated differently for tax purposes under H.R. 51 than their fellow employees across the street because they will now be in another State and not in the District of Columbia.

Proceeding southeast on Pennsylvania Avenue, we find that the Federal Bureau of Investigation building is now in New Columbia. New Columbia would be compensated for the presence of the FBI in the Payment-in-Lieu-of-Taxes program of section 203 of this bill while, at the same time, New Columbia would derive significant revenues from its imposition of a commuter tax on all of the FBI's employees who would then begin working in New Columbia.

Now the border becomes truly arcane. Page 11, line 17 says: "thence east on C Street Northwest to Third street Northwest; thence north on Third Street Northwest to D Street Northwest; thence east on D Street Northwest to Second Street Northwest; thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest. * * *" What we have just done is dissect the department of Labor into three parts, with the center in Washington, D.C., but with the wings in New Columbia. I am not making this up. So now you have people in the same building, in adjoining offices, who will have to cross a State line to meet their office mates or to go to the bathroom. The person on the District of Columbia side of the office will not be subject to New Columbia commuter taxes, but the person in the next desk will be.

Picking up H.R. 51 again on page 12, line 1: "thence northeast on Louisiana Avenue Northwest to North Capitol Street; thence north on North Capitol Street to Massachusetts Avenue Northwest; thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square. * * *" Here we lose the Government Printing Office, the Federal Energy Regulatory Commission, and Union Station to New Columbia.

From the Union Station Plaza, we proceed "South on Second Street northeast to D Street northeast; thence west on D Street Northeast to First Street Northeast; thence south on First Street Northeast to Maryland Avenue Northeast. * * *" We have just severed the Hart and Dirksen Senate Office Buildings from the District of Columbia. Two-thirds of the Senate and all staff housed in those buildings will be in New Columbia and not in the seat of government at all.

I will not bother my colleagues with more border description language, but here is a list of some of the Federal office buildings and national treasures which will be in New Columbia rather than Washington, DC:

Ford's Theater
The National Museum of Art
The National Portrait Gallery
The Library of Congress Annex
The O'Neill House Office Building
The Capitol Power Plant
The Department of Transportation
The Department of Housing and Urban Development are all in New Columbia.

The employees in those buildings will be subject to New Columbia taxes. To add insult to injury, the Federal Government will be paying New Columbia taxes on those buildings under the Payment-in-Lieu-of-Taxes provision of section 203.

The new seat of Government—the residual District of Columbia created by the legislation before us today—is completely developed and has no room in it

to create even one new Federal building to house future departments or meet any needs for expansion of the Federal Government. There will be no room for any new museums or monuments to honor future heros and leaders. For the supporters of this legislation to claim that New Columbia is made up only of the neighborhoods is outrageous. Such a statement is patently false.

Reducing the Nation's capital to less than 3,000 acres is not merely inconvenient, it is unconstitutional. Thirty years ago, Attorney General Robert Kennedy told the House Committee on the District of Columbia that such a small sliver of land would not meet the intent of the Founding Fathers:

> Reduction of the District to [a] small strip of territory occupied almost wholly by Federal buildings is thus clearly inconsistent with the concept of the Federal city held by the framers. The inadequacy of the small area . . . to meet the objectives of the framers and the inherent needs of our Federal system is apparent.

The District's substantial population is not, as some have contended, an unintentional mistake. As Kennedy pointed out:

> The plan for the city, executed by [Pierre] L'Enfant and submitted by President Washington to Congress on December 13, 1791, was at that time the most comprehensive plan ever designed for a city. . . . The 'seat of government' contemplated by the framers included extensive residential areas. . . . L'Enfant's plan, as originally drawn, was designed for a city of 800,000, the size of Paris at the time.

Attorney General Kennedy concluded that:

> A persuasive argument can be made that article I, section 8, clause 17 of the Constitution established, as a permanent part of our constitutional system, a Federal district constituting the seat of the government, having a substantial area and population.

Statehood proponents are disguising a wide variety of complex issues with slogans and oversimplification. Even before the outrageous change in the boundary, H.R. 51 would deprive the seat of government of the "indispensably necessary" land and population as envisioned by Washington, Jefferson, and Madison.

H.R. 51 requires us to relinquish two-thirds of the Senate, a number of House staff, several Federal courts, five cabinet departments, the FBI, and part of the White House staff to the state of New Columbia.

The bill reported by the committee provides privileges which no other state enjoys. Let us present the whole package so that the American people clearly understand that statehood advocates want a special relationship with the Federal Government for their State.

Let us see who will vote for a bill which does not admit the State on a coequal basis with the other 50 States.

Let us vote on a bill which has such drastic consequences for our Nation's capital.

Let us vote on this bill to see who will stand up for the rights of 250 million Americans who have the right to participate in the democratic process of amending their Constitution.

If the rule is defeated, we will lose the opportunity to clearly record our opposition to this assault on the Constitution. Do not be afraid to defend the Constitution. Do not let political slogans and falsehoods intimidate you from upholding your oath of office.

Vote for this rule. The bill is the product of the Democratic majority. It is the product of 10 years of committee consideration and work. It is too late to tell the committee to go back and fix it. It is their bill. This what the statehood advocates are demanding.

I urge my colleagues to vote for this rule.

Then let us reject this piece of legislation.

Mr. Speaker, I thank the gentleman for yielding me the time.

□ 1520

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. PETE STARK].

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding. I would like to engage for just a moment my distinguished colleague from Virginia for a question. I am concerned as to what difference it makes. It is my understanding that the Pentagon and the CIA are in Virginia, that the Social Security Administration and the NIH are in Maryland. It is somehow a matter of indifference, it would seem to me, whether the Capitol power plan is in the District of Columbia or in the new State. Could the gentleman enlighten me?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am happy to yield to the gentleman from Virginia to tell me what difference it makes.

Mr. BLILEY. Mr. Speaker, for example, in the charter of the Department of Transportation and in the charter of the Department of Housing and Urban Development it specifically states that they will be in the Capital. And if we adopt this bill, they will be in another State.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am glad to yield to my distinguished friend, the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, charters are amended, and I wonder if the gentleman from Virginia would explain to us why it is essential to the Nation that the Department of Transportation be in the Capital, but the Pentagon and the CIA can be in Virginia? I have never heard an argument with less force in all of the years that I have been here.

Mr. BLILEY. If the gentleman will yield, I would say the same, is it necessary for the Hart and the Dirksen Buildings to be in the Federal enclave?

Mr. STARK. If I may reclaim my time, the bill clearly states that the legislative buildings adjacent to the Capitcl will stay in the District complex.

Mr. BLILEY. Not according to the map.

Mr. FRANK of Massachusetts. If the gentleman from California will yield, let me say I have never been a strong defender of the Pentagon and the CIA, but if we had to choose between dispensing with the Dirksen and the Hart Buildings for the national interest or dispensing with the Pentagon and the CIA, I think I would get rid of the Dirksen and the Hart Buildings and hold onto the Pentagon and the CIA.

Mr. STARK. Mr. Speaker, I wanted to urge my colleagues to support the closed rule, which my distinguished colleague from Virginia, the ranking member of the Committee on the District of Columbia agreed we should seek, and to have 3 hours of debate. Indeed, the 3 hours will give us plenty of time to discuss the issue of disenfranchised residents of the District of Columbia, and indeed to discuss the considerable technical details that would be necessary in forming the new State of Columbia. These are issues that should be debated.

There was no request or no demand for an open rule. There were no amendments that were asked to be placed in order.

The issue here is that we have come with the great good cooperation of the minority and the majority on the District of Columbia Committee, and the staff on both sides have worked with great cooperation. Many Members have a deep concern over the issue of self-determination, of statehood, a concern for the neighboring States. And it is with that in mind that I think the people in this District of Columbia are entitled to have the issue debated, and to have the vote brought to the House for their determination.

There will be many differences of opinion over many issues in this bill. But the key should not be to deny. We already deny these people full representation. We should not deny them the opportunity to have their future and their destiny debated.

I urge the passage and the adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS], a very valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman emeritus for yielding me the time.

Mr. Speaker, the issue of statehood for the District of Columbia is a matter of great concern to all Americans. It directly affects the integrity of our Constitution; the future of our Capital

City and our national self image. It is not something to be taken lightly; nor should its careful consideration be rushed, distorted or otherwise demeaned by short-term political maneuvering. I know statehood advocates, led by their able delegate, Ms. NORTON, are sincere in their efforts to represent their constituents. I know they are in this struggle for the long-haul. But I worry that the contortions we have seen to bring us to this point today reflect a detour from that noble commitment, into the realm of political grandstanding and photo ops. We are less than 3 days from the sine die adjournment of the first session of this Congress. We are putting in extra long hours, through the weekend, in an effort to pass legislation that the Democrat majority has deemed a priority. Yet, today, during a rare Saturday session expected to carry into an even more unusual Sunday schedule, we are switching gears to debate and defeat legislation for D.C. statehood. Every one in this Chamber—including D.C.'s most ardent supporters—admit that this bill will be soundly defeated. I even read it on the front page of the Washington Post this morning. But I don't understand why the Democrat leadership has allowed itself and this House to become a back drop for special interest political theater over this weekend. It's one thing for statehood promoters to cause inconvenience and waste time blocking traffic illegally; it's another thing to cause inconvenience and waste precious legislative time unnecessarily on our tight legislative schedule. Americans are asking for tough anticrime measures, real deficit reduction and meaningful campaign reform—but these measures have been pushed aside for a high visibility political gambit. Finally, I must remind my colleagues that this rule is a completely closed rule—which is an insult to every Member and our constituents who care about this issue and who wish to participate in the process and give it a fair deliberation. I strongly urge defeat of the rule and a no vote on statehood.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to remind the gentleman at the microphone that both sides, the ranking minority and the majority, asked for a closed rule and said that they had no requests for amendments. So it was nothing that the Rules Committee did. We just complied with the desire of the Chair.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I would love to yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, that is a true statement. Of course, the distinguished chairman is correct.

That does not mean that there are not some of us who felt that we should not have a closed rule, and that is what I was trying to portray. And I thank the gentleman for yielding.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, before I begin my own remarks, let me refer the ranking member of the committee to section 112(a) on page 10 of the bill which indicates that the Federal, executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building will be in Washington, DC; the Federal sector.

Let me also indicate that a Republican member of the committee offered an amendment to which I agreed that would prescribe a technical survey of the metes and bounds of the District of Columbia after statehood, on the theory that Congress, of course, is in no position to do that kind of technical survey now, and it is most often done after admission in order to get the exact contours of the State.

Mr. Speaker, this is a historic day in this Chamber. To debate the admission of any territory into the Union of the United States of America is historic.

But history will particularly remember what Members say today and how they vote tomorrow, for we are not debating the admission of a unique parcel of land known as the District of Columbia or Washington, DC. We shall be debating what might have been thought to be an American truism beyond debate: whether at least to grant full citizenship rights to a group of Americans on whom this Nation has always imposed every single citizenship responsibility.

□ 1530

Thirty-seven of the States have entered the Union since it was formed. We would enter, Mr. Speaker, already paying Federal taxes.

This Nation was formed precisely because Americans paid taxes to a sovereign who afforded them no representation. The animating principle of American democracy has been no taxation without representation.

Mr. Speaker, I represent the only Americans who pay taxes without full representation in this House, and with no representation whatever in the Senate. This is but one of the badges of unequal citizenship Washingtonians wear.

In and of itself, however, taxing people while giving them no say in how their taxes are spent is such a profound and unprincipled contradiction in this country that it deserves special emphasis all by itself today. Surely no Member can, and I trust will, try to defend this notion in today's antitax atmosphere. The insult to democracy and to the people of the District of Columbia is compounded by the fact that my constituents are third per capita in taxes paid to the Federal Treasury; not only taxed, Mr. Speaker, but so highly taxed that we pay more per person than almost all who are, indeed, represented here.

The four territories, American Samoa, Guam, Puerto Rico, and the Virgin Islands, pay no taxes to the Federal Treasury nor should they since they have not sought statehood. Thus, the original American promise has been kept as to the territories and as to all other Americans but not the citizens of the District of Columbia.

Further, our country justly and correctly has afforded full self-governance rights to the four territories, while the District is forced to accept undemocratic usurpation of its laws by this body at its whim and will. Despite the passage of the Home Rule Act 20 years ago, the House and the Senate violate the letter and the spirit of the act every single year. Yet, the first civics lesson children learn in school is no taxation without representation.

Some do not know the words of "My Country 'Tis of Thee"; some lose their way before they come to the wonderful flourishes and complicated crescendos of "The Star-Spangled Banner," but go to any elementary school in the rich suburbs of McLean, VA, or Potomac, MD, or go to the poorest wards across the river in my district, schoolchildren, wealthy and poor, know it like they know their nursery rhymes, "no taxation without representation."

But, Mr. Speaker, I ask sincerely this afternoon, do my colleagues know this most American of self-governing principles? Do my colleagues remember "no taxation without representation" from their own school days? Indeed, Mr. Speaker, do my colleagues recall their own anguish over taxes in the debates that ring through this Chamber every day?

If "no taxation without representation" has lost its power as a freedom principle and become nothing more than stale rhetoric, then let us this day send it to the Smithsonian with the rest of our Americana and tell our children and our people that this is what we used to believe.

What we see on the floor today and how we vote on statehood for the District of Columbia will avoid the taxing principle on which our country was founded only by taking a detour into hypocrisy.

Mr. Speaker, we do not pretend that the District will win statehood today. However, we are very encouraged by the number of Members who have told the Leadership Conference on Civil Rights or a colleague during the whip count or me personally that they will vote for the rule and/or for final passage. The number who have committed to vote for statehood itself is impressive.

I ask you, my colleagues, to hold fast with us. I hope that my colleagues will

vote for statehood if only as a symbol of respect for the citizens I represent.

At the very least, I ask you not to deny us the right to debate this issue with our opponents. We are not afraid. We trust they are not. At the very least, I ask you to vote "aye" on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to point out to my chairman and to the Delegate from the District of Columbia that their reading of the border language is mistaken. The bill does clearly state that the District of Columbia shall include the principal Federal monuments, the White House, the Capitol Building, the U.S. Supreme Court Building, and the Federal, executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

That may have been the intent behind the amendment offered by the Delegate from the District of Columbia in committee, but the fact is as I have described it.

You quoted from section 112(a), but you began after the operative language. Let me quote the overriding parts of the bill, page 9, line 17, section 112(a): "Subject to the succeeding provisions of this section." Then comes the language you quoted. So the listing of the buildings you quoted is conditional not absolute, and then it goes on, and I thank the gentleman for the time.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker I rise in strong support of the rule for H.R. 51, the New Columbia Admission Act, which would grant statehood to the District of Columbia.

Statehood for the District of Columbia is a matter of fairness. Like other Americans, residents of the District pay Federal income taxes and serve in the U.S. military. The Vietnam war death toll among District residents was higher than it was among the residents of 10 of our States, and the District had a higher Persian Gulf war participation rate than 46 States

Yet, in spite of being called upon to meet the full responsibilities of American citizenship, because they live in the Nation's Capital, District residents do not enjoy the full privileges of citizenship that their fellow Americans do. The residents of the District of Columbia, which has a population greater than either Alaska, Wyoming or Vermont, have been locked out of the American democratic process. Although they can vote in Presidential election, they have virtually no Federal representation—effectively no voting representation here in the House, and no representation whatsoever in the Senate.

True, the District does have home rule, but it is limited home rule— independence that is crippled by the fact that Congress has both budgetary and legislative control over the District's day-to-day business. Local laws are all subject to congressional review—a review process that incorporates a period of up to 2 months during which District bills remain in limbo awaiting possible congressional disapproval. The District's legislative process essentially grinds to a halt when Congress adjourns. As a member of the Appropriations Committee participating in the full committee markup of the District of Columbia appropriations bill, I have listened to my colleagues debate over and over issues that have already been decided by, and are well within the jurisdiction and responsibility of, the District of Columbia City Council. This congressional oversight is costly, inefficient and completely unfair.

The New Columbia Admission Act would change this basic unfairness. It would not impinge upon or threaten our present seat of government. What we have come to think of as our Nation's Capitol—the Capitol, the White House, the Federal buildings, our monuments and even certain military sites—remains as it is now, under complete and exclusive control of the Federal Government. That part of the District that we have come to regard as our Capitol will remain intact. We are just reducing the size of the seat of government, as we have already done on two previous occasions.

The Americans who live in the District of Columbia are locked out of our democratic process. As Americans, they have the right to vote on matters that affect them, and to expect that those decisions are implemented. How can we as true Americans, as representatives of the people, continue to deny these citizens the right that lies at the heart of our democratic system—their right to equal representation here in our seat of government?

The arguments that we are hearing now and are going to hear during the remainder of this debate are virtually the same arguments that were put forward every time that the issue of statehood has been raised—whether it is Colorado, Alaska, Hawaii, or the District of Columbia. That is why I am hoping that we will be able to set aside some of these more short-sighted arguments and instead focus on the bigger issue—the right of these disenfranchised citizens to fully participate in the American democratic process. I urge my colleagues, on both sides of the aisle, to support both the rule and final passage for the admission of New Columbia into the Union.

States have been admitted to the Union without any limitation. Every one since 1850, we do not need any pernicious amendments. Let us vote up or down.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, today we debate whether or not the District of Columbia should be admitted as the 51st State of the Union. The District's government believes that statehood would significantly improve the District's ability to meet the needs of its citizens, to plan and adopt budgets, and to defend itself in the halls of Congress.

Let me begin by pointing out that I served on the House Appropriations subcommittee on the District of Columbia for many years because I care about this city, its children, its integrity, its safety, and because this city should represent the best our Nation has to offer. It is the home of our capital, the home of our Founders, and the home of just under 600,000 people.

If the point of the statehood legislation is to provide for voting representation for the residents of the District of Columbia and to provide autonomy and self-reliance, then I do not see why an alternative suggestion that accomplishes these same goals should not also be considered. My purpose today is to call attention to an alternative to statehood, as provided in H.R. 1205.

Simply stated, I support making the District a city in Maryland instead of a State—this idea is called "retrocession" because we would be returning the land given by Maryland to Maryland.

The land that now comprises the District of Columbia once belonged to Maryland and it makes sense to return the District to the State of Maryland, minus a reduced Federal enclave made up of the Federal buildings, just as the western portion of the District was returned to Virginia in 1846. The Federal enclave would be administered by Congress, as the U.S. Constitution requires.

Current D.C. residents would become citizens of Maryland, with full voting representation. And retrocession would preserve Maryland's intent that the land it gave be the seat of government.

Ten ways the District benefits from retrocession:

First, DC residents could run for and vote for at least one voting member in the House, two Senators, and a Governor.

Second, D.C. residents could run for and vote for dozens of State senators and delegates to represent Washington in Annapolis;

Third, the District could use the Maryland State prisons, and law enforcement officers could pursue interjurisdictional drug problems;

Fourth, the education system would have the same opportunities and taxing authority that Maryland's system enjoys;

Fifth, Retrocession would expand the local economic base beyond its limited boundaries without the added bureaucracy of a State government;

Sixth, most importantly, the residents of D.C. would have voting representation in a way more likely to be accepted by Congress than statehood;

Seventh, D.C. residents could tap into transportation services as well as those relating to crime prevention and drug enforcement, economic development, health, and the judicial system;

Eighth, the District would no longer be able to justify, or pay for, the excessive DC payroll by saying that extra people are needed to fulfill State-like functions;

Ninth, the District's political candidates would be able to run for statewide offices in Maryland, which would open up the political system to newcomers with fresh ideas; and

Tenth, local laws would no longer be subject to congressional review.

How do we know that retrocession would work?

Every other democratically based nation throughout the world provides for voting representation in its national legislature for citizens residing in its capital area.

Canada offers a prime example of how this proposal could, and does, work. Ottawa lies in Ontario and sends representatives to the provincial parliament in Toronto and to the federal parliament as part of the Ontario delegation.

It will be said that those of us who are opposed to statehood do not have the best interest of the District citizens at heart. Well, I introduced legislation to allow the District to tax income earned by non-residents, which represents about 60 percent of total income earned in the District.

Finally, let me say that the first reaction I get to my proposal from D.C. politicians is outrage because they say the people of the District would never support becoming a city in Maryland. However, after I introduced retrocession legislation, I received several hundred phone calls and letters from D.C. residents who support my proposal. I would argue that many residents of DC would prefer retrocession.

The question of voter representation for the residents of the District of Columbia is an involved, serious one, but we do a disservice to the people of the District if we limit the debate to only one option. To establish a city-state would be a first and undoubtedly would result in many other cities asking for the same treatment.

□ 1540

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, it is not enough that D.C. has more citizens than three States in the Union; it is not enough that D.C. citizens have died in foreign wars; it is not enough that DC citizens pay the same Federal taxes. The killer is it is OK for D.C. citizens to be denied the right to representative government.

Shame, Congress, shame.

A Congress that condemns human rights violations and promotes democracy overseas but turns its back on 600,000 Americans crying out for representative participatory government is unbelievable, unacceptable, and un-American.

In fact, there are at least 51 other reasons for the State of New Columbia.

You know what, Congress, I do not want to hear that Founding Fathers rap. When the Founders were here, Crystal City was a pasture. I think it is time for a little Jeffersonian "founders and keepers."

The Constitution did the founding, the State of New Columbia should do the keeping. Think about it.

I support the 51st and I want to wish the gentlewoman the very best, the great lady from the new State, New Columbia.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise for the first time in my memory to support a closed rule. The reason is simple: I do not believe that H.R. 51 can be made palatable by any amendments I can envision. H.R. 51 is ill-conceived and unconstitutional. Article 1 of section 8, clause 17 of the Constitution establishes the District of Columbia. I do not believe the nature of it can be modified by legislation in the absence of an amendment to the Constitution. By any other attempt, it will point us down the path of endless litigation, calling everything in question from the local ordinance to the election procedures in this body.

The delegate from the District of Columbia said that she thought this was a historic day, that the consideration of bringing a territory into statehood puts it into that category. It is historic in that we are clearly calling an unconstitutional issue to the floor for demonstration. This should never happen. If supporters were really interested in change, they would go the route of a constitutional amendment.

Someone mentioned the fact that Wyoming was smaller in population. Statehood is not a product of population. Wyoming went through the constitutional process to become a State, and that is what should be done here as well.

Mr. Speaker, as a true American, I am concerned about the participation of DC residents in the Federal election process. I suggest that we pursue the retrocession to the State of Maryland.

While I oppose H.R. 51, I will support this as an alternative.

Mr. Speaker, we will hear from a long line of speakers this afternoon outlining in more detail that I have time to do the Constitution on the practical problems which I believe are fatal to this bill.

I urge my colleagues to listen carefully and not be swayed by emotional and yet illogical arguments by the bill's proponents.

I urge swift passage of the rule and equally swift defeat of H.R. 51.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding for a brief question. Mr. Speaker, I say to the gentleman, Did not Wyoming go through the same process that we are going through today?

Mr. THOMAS of Wyoming. Wyoming was not the seat of the Federal Government and did not require a constitutional amendment as this requires.

Mr. STARK. Beg pardon? Wyoming went through the same process we are going through today?

Mr. THOMAS of Wyoming. Wyoming was not the seat of the Federal Government prior to asking for statehood. Does the gentleman have any further questions? Very well.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to my dear friend, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Speaker, I must say I have never heard such a relentless effort to trivialize a matter of great principle as we heard from our friend from Virginia. He continues to obsess about the map as if he were on the zoning board.

The fact is that the Social Security Administration is in Maryland, the NIH is in Maryland, the Pentagon is in Virginia, the CIA is in Virginia. And it is not relevant at all, it has never been considered relevant. People said, "Well, the Hart and Dirksen Buildings will not be covered." I do have to say, as I said before, the Pentagon is outside, and if I had to choose, I would point this out: The people who work in the Pentagon never filibustered to death the Brady bill and the people who work in the Pentagon never had extended debate to keep grazing fees up. So, if I had to choose, that is how I would choose.

But the point is we all know it is irrelevant. Why does a thoughtful individual like the gentleman from Virginia avoid the main issue? Because it is not comfortable in the Congress of the United States to deny people their democratic rights.

We have not heard from the opponents a head-on joinder of the issue. The issue is this: Should people who

live in America and are subjected to every responsibility, every single responsibility of American citizenship, who fulfill every duty an American citizen has to fulfill, should they be denied the right of both self-government and representation in Congress? Because this Congress has, ever since I got here and from long before, consistently interfered, sometimes for merely its own convenience, in the right of the people to self-government and has denied them the right of participation in Congress.

□ 1550

Mr. Speaker, let me point out if anyone thinks we are getting a partisan advantage here, we are not. The way the Senate works, it takes 60 votes to pass anything today because they always have a filibuster. Now, if you add two, you would still need the same number to pass a bill, that is 41 can filibuster a bill to where it cannot pass today and 41 could filibuster it if you add two. You can do your arithmetic while you are doing your geography, but some of us would rather talk about constitutional principle.

The principle is very simple. Should American citizens who live in America and pay taxes and fight and do everything else be allowed to govern themselves and be allowed in fact to have representation?

The notation that because the Constitution says you may have a seat of government, therefore you may not change its boundaries is nonsensical. Nothing in the Constitution says that the seat of government, having once been established, the boundaries cannot be cut.

Now, it is touching that my friends have found one thing in Robert Kennedy's career for which they are grateful. I am glad to hear them talk about it, but I must say that the overriding point is that the Constitution empowers us as the Congress to create a seat of government. It does not disempower us from changing its boundaries, even if the Department of Transportation, potentially putting the Nation in peril, might be outside those boundaries, we can still meet the Democratic initiative of self-government.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the central issue in this issue has been addressed. My friend, the gentleman from Massachusetts, may try to ignore that, but we have been offered an alternative to take care of the civil rights issue, to take care of the voting rights of the people of this area so they will have representation in the Senate and in the House.

The reason why we are rejecting the statehood solution is that it does not work and it is not fair. It does not work, as it demonstrated by the fact that some people who work in a building will have certain tax obligations if their desks are in one part of the building and different tax obligation if their desks are in the other part of the building.

So it does not work on the face of it due to the geography. It does not work right now. This area does not even work as a city, much less a State, but it also is not fair.

If you are looking for a solution for the 600,000 people of this area to be given the right to vote for two U.S. Senators and a voting Member of Congress, it is not fair to provide them, just like it would be unfair to provide the citizens of any other city two U.S. Senators.

You can make it a part of Maryland. They will have the same right to vote for U.S. Senators, but you will not consider that option because it does not give the Democratic Party control of two U.S. Senators.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair would remind visitors in the gallery that they are guests of the House and they should make no manifestation for or against the proceedings on the floor.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I take the floor today to speak about democracy and about simple justice.

Mr. Speaker, this aspect of the debate is about the rule. Will this body allow this bill to be debated without an attempt to distort, malign or marginalize an attempt to bring democracy to the District of Columbia.

I ask my colleagues to support a closed rule. Let us not clutter this debate with extraneous amendments.

Mr. Speaker, today, 600,000 U.S. citizens in the District of Columbia are denied the small full representation accorded to other U.S. citizens.

Citizens from the District pay taxes to the Federal Government at the fourth highest per capita rate in the Nation. Only Connecticut, New York, and New Jersey pay higher per capita taxes.

District residents have fought and died in every war since the American Revolution. During the Vietnam conflict, the District of Columbia had more of its residents killed than all but 10 other States and more killed per capita than 47 other States. During the gulf war, only four States had more citizens in service than the District.

District residents have proven their willingness to contribute to our Nation's coffers and serve in our Nation's wars. Now those residents—our fellow citizens—are asking us to admit New Columbia as the 51st State in the Union. We should not let race or partisan policies, ideology or attitudes toward the current District Government distract us from the real issues at hand

What is at stake here is our commitment to full Democratic rights for District residents. District residents are petitioning us for the full representation and self-government that come with statehood. They are asking for justice. "Democracy" and "justice" are words that ring throughout this Chamber with some regularity. If those words are to mean anything, we should vote today to admit New Columbia as the 51st State of the United States.

Mr. Speaker, I urge the adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, as we cast our votes for or against H.R. 51, the New Columbia Act, we should remember that casting a "yes" vote for the bill would not simply admit the 51st State into the Union.

Enactment of H.R. 51 would violate our Constitution, and it would create a State with special rights and privileges that no other State enjoys.

For 30 years, since Attorney General Robert Kennedy testified on statehood before the House Committee on the District of Columbia, the Justice Department, through Democratic and Republican administrations alike, has consistently advised that statehood for the District would require a constitutional amendment.

In bypassing the proper constitutional process and admitting New Columbia into the Union merely by congressional act, Congress would be seizing power from our 50 States and American citizens.

The question of statehood should be put directly to the people of our 50 States, not Congress.

The District of Columbia is merely a city. That is all it is. The District has none of the traits we associate with statehood—farms, factories, manufacturers, wide-open spaces.

This synthetic State of New Columbia would only have two industries, government and tourism—no manufacturing, no agriculture.

For these reasons, the viability of New Columbia would continue to depend upon generous Federal Government payments in lieu of local taxes.

H.R. 51 would diminish the Nation's Capital to a tiny and completely dependent annex of the State of New Columbia.

Our Founders created the District of Columbia to be a separate, 100-mile region under the exclusive control of Congress as the seat of the Federal Government for a good reason—they realized that the Federal Government must not be dependent upon, nor subject to, the influence of any single State.

James Madison expressed strong concerns that if the seat of the Federal Government were placed in a State, it would be subject to entanglement in local politics and could be coerced by the State into providing costly goods and services.

This situation has not changed in 200 years.

H.R. 51 would place New Columbia in a position where it could coerce the Federal Government into granting the State additional benefits.

For example, New Columbia might threaten to set up toll booths or refuse to repair roads in order to receive increased payments or benefits from the Federal Government. No other State in our Nation is in such a position to inflence the Federal Government.

Proponents of H.R. 51 argue that citizens of the District deserve statehood because they pay more to the Federal Treasury per capita than all but two States.

But we should consider not only what the District residents pay to the Federal Government, but also what they receive from it.

In 1990, the Federal Government spent $28,592 per capita in the District, more than seven times the total U.S. spending per capita.

In additional, the District receives $4.72 in Federal funds for every $1 paid in Federal texas. Connecticut, with the highest per capita tax burden, receives only 67 cents for every $1 paid in Federal taxes.

Residents of the city of Washington, DC, have but one grievance that matters: They have no vote in Congress.

Taxation without representation is tyranny, they claim. These "oppressed" citizens of Washington demand one seat in the House and two in the Senate, all of which would be forever held by Democrats.

We can address this problem without granting statehood to the District.

In 1788, when the Founders created the District of Columbia, it contained 100 square miles that were carved out of Maryland and Virginia.

Thirty-one of these square miles were returned to Virginia in 1846, leaving the 69 that had once belonged to Maryland.

Perhaps Maryland could be persuaded to take back most of its 69 square miles. Its Governor has already endorsed the idea.

Under this solution, residents would be full-fledged citizens of the sovereign State of Maryland, entitled to vote for Maryland's Governor and Members of Congress. Maryland would also gain a seat in the House.

In short, the enactment of H.R. 51 would seize power from American citizens, grant unequal, additional privileges to New Columbia, and place the Federal Government in a position where it could be negatively influenced by one particular State.

For these reasons, I urge my colleagues to vote "no" on H.R. 51 and consider the alternatives instead.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I have several what I feel are compelling reasons why I will be voting against this bill and urging other to do so as well.

I had planned to offer an amendment to the rule. I withdrew that for a couple reasons, one after talking with the gentleman from California [Mr. STARK] and the gentleman from Virginia [MR. BLILEY], it became clear that the majority and minority were in agreement that it ought to be a closed rule. Generally when that is the case, it is a done deal.

But second, why spend a lot of time trying to patch up the victim if it is about to die away? I am sure there are more delicate ways of phrasing that, but the analogy is clear.

The reason why I wanted to amend this rule deals with the fact that this bill would put under the effective control of the State of New Columbia 2,000 acres within my congressional district, within the Commonwealth of Virginia, 2,000 acres that currently house the Lorton Prison.

Clearly, there is no precedent, nor should there be, for one sovereign State to house its prisoners in another State.

Maybe at this point I could ask my good friend, the gentlewoman from the District of Columbia [Ms. NORTON] if she would agree that no State should be housing its prisoners in another State and that this is at least one aspect that can and should be rectified.

Ms. NORTON. Mr. Speaker, if the gentleman will yield, in fairness, I say to my good friend, the gentleman from Virginia, I do not believe that a sovereign State can or should house its prisoners within the borders of another State without the host State's permission. During the markup of this bill, the Committee on the District of Columbia adopted an amendment I offered to section 303 which recognizes the gentleman's concern regarding the future of the Lorton complex. My amendment would require that the Statehood Transition Commission identify specific options that may include any or all of the following: the construction of prison facilities within the State of New Columbia; the development of agreements with Virginia as well as other States to house prisoners; and the development of a plan to close the Lorton complex, no later than the year 2010, absent an agreement with Virginia to keep the complex open. The Lorton issue would require study and planning because such a large facility could not be closed overnight, but my amendment is very specific, including a time certain to resolve the issue.

I think that by putting this language in the bill and not merely in the committee report, I have made a detailed and good faith effort to assure that New Columbia would enter the union with neither prejudice or favor.

If the District of Columbia wants to be a State, it must accept all of the responsibilities of a State. One of these responsibilities is providing for the custody of District prisoners within the District's own borders, should it become necessary.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the chairman of the Rules Committee for yielding this time to me.

Mr. Speaker, I appreciate the fact that the gentlewoman from the District of Columbia [Ms. NORTON] would agree that we cannot have a sovereign State housing its prisoners within the confines of another State.

I do think that 17 years to rectify that situation is a bit long.

My amendment would have given 2 years, so we obviously have some disagreement on the timeframe; but I am glad that we do not have any disagreement on the principle that both the prison for residents of the State of New Columbia would have to be housed within the boundaries of the State of New Columbia and that we need to go about that immediately, if this bill were to pass.

Mr. Speaker, I appreciate the gentlewoman's remarks.

□ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the honorable gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, it is with some regret that I rise to oppose the distinguished gentlewoman from Washington, DC [Ms. NORTON] on whether or not this should become the 51st State.

George Santayana said that he who does not learn from history is doomed to repeat it.

In the days just previous to the adoption of the Constitution of the United States, Mr. Speaker, the Congress of the United States was physically driven from Philadelphia, which was then the capital, and since that time the Congress of the United States has sat in no less than 11 places where we have tried to serve as the government of all the people of the United States.

We have before us a closed rule which would essentially authorize substantial change in major constitutional law and raise constitutional questions.

The law is very simple. The Congress, under article I of the Constitution, has the full right and prerogative to legislate in this city, in this area, and that has been so since the Constitution was adopted. There is no need to change it.

I have heard many sad complaints about how Washington pays taxes and gets nothing back. I say to my colleagues, don't believe it. For every dollar in Federal taxes that is paid by Washington, DC, Mr. Speaker, this city gets back $4.92. The Congress and the Government provide a police force, the park system, most or many of the roads and highways. We afford rights to vote in the Presidential election. We have an elected form of government here, and there is an elected school board. All rights, save the right to exercise jurisdiction as a State or city over the business of the Federal Government, is afforded to the citizens here.

I have heard many, many complaints about people being denied constitutional rights. There is no constitutional right whatsoever that is being

denied to the citizens here. If they do not like the way the government is run, they can pick up and move out. Many do. Many move in; many move out.

The proponents of this legislation have said that this legislation has no chance of passing. I concede that that is so. I concede that that is wise. I say, let us have a vote on this question, and let us vote the rule down. It is a closed rule. It is a foolish act by this Congress to waste the time of the American people on this kind of trivia. Regret the rule, and let us go about more important business.

Mr. QUILLEN. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I do not normally disagree very often with the chairman of the Committee on Energy and Commerce, on which I serve, but I do think I support this rule, and it is a closed rule, and it is closed principally, as far as I am concerned, because of the Smith case, Coyne versus Smith, 1911, which said in effect, "You cannot bring in a State with different conditions than you bring in any other or brought in any other State," and that is why I have to disagree with my good friend, the gentleman from Virginia [Mr. MORAN] who represents Alexandria, because, true, no other State has a prison in another State, but I do not think Congress ever addressed that question on the admission of a State.

So Mr. Speaker, I thank the gentleman for having yielded me all of the time.

Mr. QUILLEN. Mr. Speaker I urge the defeat of this rule and the bill when it is on the House floor, should it ever reach there.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for the purpose of closing debate, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, the gentleman from Michigan [Mr. DINGELL] made an outrageously false statement, the $4.72 for every dollar statement. That figure includes all civilian payroll checks or lump sum payments issued by any Federal agency in the District of Columbia, including checks written to Members of the House and the Senate. It is not a valid figure.

I say to my colleagues, be prepared, my friends, for just that kind of argument. This afternoon you will hear high rhetoric designed to justify low practices. Some will wrap themselves in the Constitution sending shudders through the dust of the dry bones of the framers as the founding document is used to justify suppression of a will of a people. You will hear disingenuous alternatives to statehood offered. Retrocession to Maryland will be touted in violation of the Constitution which requires consent of both parties. Moreover, only seven of Maryland's State legislators favor retrocession, and District residents have voted only for statehood. You will hear that thousands of petitions against statehood have been signed. What you will not hear is that these petitions do not come from mainstream America, but from followers of Floyd Brown whom the Washington Post Sunday Magazine describes as "the creator of the infamous Willie Horton ad." The magazine reports that the petitions are "part of a fundraising appeal to those who share Mr. Brown's latest conservative nightmare." Floyd Brown has apparently moved on from his Willie Horton days to D.C. statehood by forming "an offshoot of his Citizens United conservative fundraising and advocacy organization." According to the article, Brown's mail comes from people whose opposition to statehood is based on "open political loathing of liberals, Democrats and a majority State of so-called minority citizens. Petitions from such a source and rooted in such sentiments are so far from the American mainstream that they are unworthy of consideration by a respectable legislative body."

Finally, Mr. Speaker, I say to my colleagues, you will hear from Members who cannot wait to come to the floor to take their turn at yet another round of District bashing. They will castigate the District for the very problems shared by the large cities in their home States and districts.

Mr. Speaker, I ask my colleagues to vote for this rule and give us at least the right to debate this question.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. QUILLEN. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the time for recorded votes on motions to suspend the rules on which proceedings were postponed earlier today may be reduced to a minimum of 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This vote will be followed by several other 5-minute votes.

The vote was taken by electronic device, and there were—yeas 252, nays 172, not voting 9, as follows:

[Roll No. 591]

YEAS—252

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Hoyer
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Levin
Levy
Lewis (GA)
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McDade
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Portman
Price (NC)
Rangel
Reed
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Slaughter
Smith (MI)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams

Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NAYS—172

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Blute
Boehner
Bonilla
Brewster
Brooks
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Danner
Darden
de la Garza
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Fields (TX)
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Geren
Gilchrest
Gillmor
Goodlatte
Goss
Grams
Green
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kanjorski
Kasich
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Leach
Lehman
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shuster
Skelton
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Upton
Volkmer
Weldon
Wilson
Wise
Wolf
Zeliff
Zimmer

NOT VOTING—9

Clinger
Hall (OH)
Johnson (GA)
Matsui
McDermott
Reynolds
Roukema
Slattery
Washington

□ 1629

Messrs. PAXON, INGLIS, ARMEY, BACHUS of Alabama, BARTLETT of Maryland, LEHMAN, and BRYANT changed their vote from "yea" to "nay."

Mrs. LLOYD changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. DUNN. Mr. Speaker, on rollcall vote No. 591 (H. Res. 316) providing for the consideration of the New Columbia Admission Act, I inadvertently voted "yea." My intent was to vote "no" on this bill as I am adamantly opposed to all closed rules in the House of Representatives.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3098, by the yeas and nays;
H.R. 1133, by the yeas and nays;
H.R. 2457, by the yeas and nays.

## YOUTH HANDGUN SAFETY ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3098, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 3098, as amended, on which the yeas and nays are ordered.

Pursuant to the previous order the House Members will have 5 minutes to record their votes. This is a 5 minute vote. Members are asked to remain in the Chamber. There will be two additional 5 minute votes.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 592]

YEAS—422

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns

Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Chapman
Clinger
Hall (OH)
Johnson (GA)
Matsui
McDermott
Reynolds
Ridge
Roukema
Slattery
Washington

□ 1638

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## VIOLENCE AGAINST WOMEN ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1133, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1133, as amended, on which the yeas and nays are ordered.

The Chair will announce that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 593]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Clinger
Hall (OH)
Johnson (GA)
Lowey
Margolies-Mezvinsky
Matsui
McDermott
Reynolds
Ridge
Roukema
Slattery
Washington

□ 1645

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT OF MEETING OF DEMOCRATIC CAUCUS

Mr. HOYER. Mr. Speaker, I would like to announce to the Democratic Members of the House that there will be a caucus tomorrow at 1:45 p.m. in HC–5. That is at 1:45 p.m. in HC–5 tomorrow.

## WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK ACT OF 1993

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The pending business is the question of suspending the rules and passing the bill, H.R. 2457, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2457, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 335, nays 85, not voting 13, as follows:

[Roll No. 594]

YEAS—335

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Baesler
Baker (CA)
Baker (LA)
Barcia
Barlow
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Calvert
Camp
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dunn
Durbin
Edwards (CA)

Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
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Hughes
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Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
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Kildee
Kingston
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Lewis (CA)
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Lipinski
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Margolies-Mezvinsky
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Miller (CA)
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Montgomery
Moorhead
Moran
Morella
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Natcher
Neal (MA)
Neal (NC)
Oberstar
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Olver
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Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
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Pelosi
Peterson (FL)
Peterson (MN)
Pickett
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Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
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Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
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Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
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Torres
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
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Visclosky
Volkmer
Walsh
Waters
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Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—85

Allard
Armey
Bacchus (FL)
Bachus (AL)
Ballenger
Barca
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Boehner
Bonilla
Bunning
Burton
Buyer
Byrne
Callahan
Canady
Carr
Coble
Collins (GA)
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DeLay
Dickey
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fowler
Goodlatte
Grams
Grandy
Hall (TX)
Hancock
Hoke
Hutchinson
Inglis
Inhofe
Johnson, Sam
Kasich
Kim
King
Klug
Kyl
Levy
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCollum
Mica
Michel
Minge
Nussle
Oxley
Paxon
Penny
Petri
Poshard
Pryce (OH)
Ramstad
Roberts
Rogers
Rohrabacher
Royce
Santorum
Sarpalius
Sensenbrenner
Smith (MI)
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (WY)
Vucanovich
Walker
Zeliff

NOT VOTING—13

Bryant
Clinger
Gekas
Hall (OH)
Johnson (GA)
Matsui
McDermott
Reynolds
Ridge
Roukema
Slattery
Torricelli
Washington

□ 1656

Mr. KIM changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that I may proceed for 30 minutes under the special order in the time allotted to the gentleman from Ohio [Mr. BOEHNER] who has agreed to this exchange of time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

## CONFERENCE REPORT ON H.R. 2202, PREVENTIVE HEALTH AMENDMENTS OF 1993

Mr. DINGELL submitted the following conference report and statement on the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer:

CONFERNECE REPORT (H. REPT. 103-397)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202), to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Preventive Health Amendments of 1993".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*


*Sec. 1. Short title; table of contents.*

*TITLE I—BREAST AND CERVICAL CANCER*

*Sec. 101. Revisions in program of State grants regarding breast and cervical cancer.*
*Sec. 102. Establishment of demonstration program of grants for additional preventive health services for women.*
*Sec. 103. Funding for general program.*
*Sec. 104. Breast and cervical cancer information.*

*TITLE II—INJURY PREVENTION AND CONTROL*

*Sec. 201. Establishment of requirements with respect to interpersonal violence within families and among acquaintances.*
*Sec. 202. Advisory committee; reports.*
*Sec. 203. Technical corrections.*
*Sec. 204. Authorization of appropriations.*

*TITLE III—TUBERCULOSIS*

*Sec. 301. Preventive health services regarding tuberculosis.*
*Sec. 302. Research through national institute of allergy and infectious diseases.*
*Sec. 303. Research through the food and drug administration.*

*TITLE IV—SEXUALLY TRANSMITTED DISEASES*

*Sec. 401. Extension of program of grants regarding prevention and control of sexually transmitted diseases.*
*Sec. 402. Extension of program regarding preventable cases of infertility arising as result of sexually transmitted diseases.*

*TITLE V—NATIONAL CENTER FOR HEALTH STATISTICS*

*Sec. 501. Revision and extension of programs.*

*TITLE VI—TRAUMA CARE SYSTEMS*

*Sec. 601. Revisions in programs relating to trauma care.*
*Sec. 602. Authorization of appropriations.*

*TITLE VII—MISCELLANEOUS PROVISIONS*

*Sec. 701. Evaluations.*
*Sec. 702. Federal benefits for overseas assignees.*
*Sec. 703. Loan repayment program.*
*Sec. 704. Establishment of requirement of biennial report on nutrition and health.*
*Sec. 705. Alignment of current centers for disease control and prevention reauthorization schedule.*
*Sec. 706. Miscellaneous payment provisions*
*Sec. 707. Interim final regulations.*
*Sec. 708. Simplification of vaccine information materials.*


***TITLE I—BREAST AND CERVICAL CANCER***

***SEC. 101. REVISIONS IN PROGRAM OF STATE GRANTS REGARDING BREAST AND CERVICAL CANCER.***

*(a) LIMITED AUTHORITY REGARDING FOR-PROFIT ENTITIES.—Section 1501(b) of the Public Health Service Act (42 U.S.C. 300k(b)), as amended by section 2008(c)(1) of Public Law 103-43 (107 Stat. 211), is amended—*

*(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and*

*(2) by striking paragraph (2) and inserting the following paragraphs:*

*"(2) LIMITED AUTHORITY REGARDING OTHER ENTITIES.—In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) through entering into contracts with private entities that are not nonprofit entities.*

*"(3) PAYMENTS FOR SCREENINGS.—The amount paid by a State to an entity under this subsection for a screening procedure under subsection (a)(1) may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act if payment were made under such part for furnishing the procedure to a woman enrolled under such part.".*

*(b) SPECIAL CONSIDERATION.—Section 1501 of the Public Health Service Act (42 U.S.C. 300k) is amended by adding at the end the following subsection:*

*"(c) SPECIAL CONSIDERATION FOR CERTAIN STATES.—In making grants under subsection (a) to States whose initial grants under such subsection are made for fiscal year 1995 or any subsequent fiscal year, the Secretary shall give special consideration to any State whose proposal for carrying out programs under such subsection—*

*"(1) has been approved through a process of peer review; and*

*"(2) is made with respect to geographic areas in which there is—*

*"(A) a substantial rate of mortality from breast or cervical cancer; or*

*"(B) a substantial incidence of either of such cancers.".*

*(c) QUALITY ASSURANCE REGARDING SCREENING PROCEDURES.—*

*(1) IN GENERAL.—Section 1503 of the Public Health Service Act (42 U.S.C. 300m) is amended by striking subsections (c) through (e) and inserting the following:*

*"(c) QUALITY ASSURANCE REGARDING SCREENING PROCEDURES.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to such section.".*

*(2) TRANSITION RULE REGARDING MAMMOGRAPHIES.—With respect to the screening procedure for breast cancer known as a mammography, the requirements in effect on the day before the date of the enactment of this Act under section 1503(c) of the Public Health Service Act remain in effect (for an individual or facility conducting such procedures pursuant to a grant to a State under section 1501 of such Act) until there is in effect for the facility a certificate (or provisional certificate) issued under section 354 of such Act.*

*(d) STATEWIDE PROVISION OF SERVICES.—Section 1504(c) of the Public Health Service Act (42 U.S.C. 300n(c)) is amended by adding at the end the following paragraph:*

*"(3) GRANTS TO TRIBES AND TRIBAL ORGANIZATIONS.—*

*"(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to tribes and tribal organizations (as such terms are used in paragraph (1)) for the purpose of carrying out programs described in section 1501(a). This title applies to such a grant (in relation to the jurisdiction of the tribe or organization) to the same extent and in the same manner as such title applies to a grant to a State under section 1501 (in relation to the jurisdiction of the State).*

*"(B) If a tribe or tribal organization is receiving a grant under subparagraph (A) and the State in which the tribe or organization is located is receiving a grant under section 1501, the requirement established in paragraph (1) for the State regarding the tribe or organization is deemed to have been waived under paragraph (2).".*

*(e) EVALUATIONS AND REPORTS.—Section 1508 of the Public Health Service Act (42 U.S.C. 300n-4) is amended—*

*(1) in subsection (a), by adding at the end the following sentence: "Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 1501(a)(2) and with section 1504(c).'; and*

*(2) in subsection (b), by inserting before the period the following: ", including recommendations regarding compliance by the States with section 1501(a)(2) and with section 1504(c)".*

*(f) ESTABLISHMENT OF COORDINATING COMMITTEE.—Section 1501 of the Public Health Service Act (42 U.S.C. 300k) is amended by adding at the end the following subsection:*

*"(c) COORDINATING COMMITTEE REGARDING YEAR 2000 HEALTH OBJECTIVES.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a committee to coordinate the activities of the agencies of the Public Health Service (and other appropriate Federal agencies) that are carried out toward achieving the objectives established by the Secretary for reductions in the rate of mortality from breast and cervical cancer in the United States by the year 2000. Such committee shall be comprised of Federal officers or employees designated by the heads of the agencies involved to serve on the committee as representatives of the agencies, and such representatives from other public or private entities as the Secretary determines to be appropriate.".*

*(g) TECHNICAL CORRECTIONS.—Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended—*

*(1) in section 1501(a), in the matter preceding paragraph (1), by striking "Control," and inserting "Control and Prevention,"; and*

*(2) in section 1505—*

*(A) in paragraph (3) (as amended by section 2008(c)(2) of Public Law 103-43 (107 Stat. 211)), by striking "public" and all that follows and inserting "public and nonprofit private entities; and"; and*

*(B) in paragraph (4), by inserting "will" before "be used".*

***SEC. 102. ESTABLISHMENT OF DEMONSTRATION PROGRAM OF GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES FOR WOMEN.***

*(a) IN GENERAL.—Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended—*

*(1) by redesignating section 1509 as section 1510; and*

*(2) by inserting after section 1508 the following section:*

***"SEC. 1509. SUPPLEMENTAL GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES.***

*"(a) DEMONSTRATION PROJECTS.—In the case of States receiving grants under section 1501, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to not more than 3 such States to carry out demonstration projects for the purpose of—*

*"(1) providing preventive health services in addition to the services authorized in such section, including screenings regarding blood pressure and cholesterol, and including health education;*

*"(2) providing appropriate referrals for medical treatment of women receiving services pursuant to paragraph (1) and ensuring, to the extent practicable, the provision of appropriate follow-up services; and*

*"(3) evaluating activities conducted under paragraphs (1) and (2) through appropriate surveillance or program-monitoring activities.*

*"(b) STATUS AS PARTICIPANT IN PROGRAM REGARDING BREAST AND CERVICAL CANCER.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that services under the grant will be provided only through entities that are screening women for breast or cervical cancer pursuant to a grant under section 1501.*

*"(c) APPLICABILITY OF PROVISIONS OF GENERAL PROGRAM.—This title applies to a grant under subsection (a) to the same extent and in the same manner as such title applies to a grant under section 1501.*

*"(d) FUNDING.—*

*"(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.*

*"(2) LIMITATION REGARDING FUNDING WITH RESPECT TO BREAST AND CERVICAL CANCER.—The authorization of appropriations established in paragraph (1) is not effective for a fiscal year unless the amount appropriated under section 1510(a) for the fiscal year is equal to or greater than $100,000,000.".*

*(b) CONFORMING AMENDMENT.—Section 1510(a) of the Public Health Service Act, as redesignated by subsection (a)(1) of this section, is amended in the heading for the section by striking "**FUNDING.**" and inserting "**FUNDING FOR GENERAL PROGRAM.**".*

***SEC. 103. FUNDING FOR GENERAL PROGRAM.***

*Section 1510(a) of the Public Health Service Act, as redesignated by section 102(a)(1) of this Act, is amended—*

*(1) by striking "and" after "1991,"; and*

*(2) by inserting before the period the following: ", $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".*

***SEC. 104. BREAST AND CERVICAL CANCER INFORMATION.***

*Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.), as amended by section 2008(i)(2)(A) of Public Law 103-43 (107 Stat. 213), is amended by adding at the end the following new section:*

*"BREAST AND CERVICAL CANCER INFORMATION*

*"SEC. 340D. (a) IN GENERAL.—As a condition of receiving grants, cooperative agreements, or contracts under this Act, each of the entities specified in subsection (c) shall, to the extent determined to be appropriate by the Secretary, make available information concerning breast and cervical cancer.*

*"(b) CERTAIN AUTHORITIES.—In carrying out subsection (a), an entity specified in subsection (c)—*

*"(1) may make the information involved available to such individuals as the entity determines appropriate;*

*"(2) may, as appropriate, provide information under subsection (a) on the need for self-examination of the breasts and on the skills for such self-examinations;*

*"(3) shall provide information under subsection (a) in the language and cultural context most appropriate to the individuals to whom the information is provided; and*

*"(4) shall refer such clients as the entities determine appropriate for breast and cervical cancer screening, treatment, or other appropriate services.*

*"(c) RELEVANT ENTITIES.—The entities specified in this subsection are the following:*

*"(1) Entities receiving assistance under section 317E (relating to tuberculosis).*

*"(2) Entities receiving assistance under section 318 (relating to sexually transmitted diseases).*

*"(3) Migrant health centers receiving assistance under section 329.*

"(4) Community health centers receiving assistance under section 330.

"(5) Entities receiving assistance under section 340 (relating to homeless individuals).

"(6) Entities receiving assistance under section 340A (relating to health services for residents of public housing).

"(7) Entities providing services with assistance under title V or title XIX.

"(8) Entities receives assistance under section 1001 (relating to family planning).

"(9) Entities receiving assistance under title XXVI (relating to services with respect to acquired immune deficiency syndrome).

"(10) Non-Federal entities authorized under the Indian Self-Determination Act.".

**TITLE II—INJURY PREVENTION AND CONTROL**

**SEC. 201. ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO INTERPERSONAL VIOLENCE WITHIN FAMILIES AND AMONG ACQUAINTANCES.**

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.), as redesignated by section 2008(i)(2)(B)(i) of Public Law 103-43 (107 Stat. 213), is amended—

(1) by redesignating sections 393 and 394 as sections 394 and 394A, respectively; and

(2) by inserting after section 392 the following section:

"INTERPERSONAL VIOLENCE WITHIN FAMILIES AND AMONG ACQUAINTANCES

"SEC. 393. (a) With respect to activities that are authorized in sections 391 and 392, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out such activities with respect to interpersonal violence within families and among acquaintances. Activities authorized in the preceding sentence include the following:

"(1) Collecting data relating to the incidence of such violence.

"(2) Making grants to public and nonprofit private entities for the evaluation of programs whose purpose is to prevent such violence, including the evaluation of demonstration projects under paragraph (6).

"(3) Making grants to public and nonprofit private entities for the conduct of research on identifying effective strategies for preventing such violence.

"(4) Providing to the public information and education on such violence, including information and education to increase awareness of the public health consequences of such violence.

"(5) Training health care providers as follows:

"(A) To identify individuals whose medical conditions or statements indicate that the individuals are victims of such violence.

"(B) To routinely determine, in examining patients, whether the medical conditions or statements of the patients so indicate.

"(C) To refer individuals so identified to entities that provide services regarding such violence, including referrals for counseling, housing, legal services, and services of community organizations.

"(6) Making grants to public and nonprofit private entities for demonstration projects with respect to such violence, including with respect to prevention.

"(b) For purposes of this part, the term 'interpersonal violence within families and among acquaintances' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, elder abuse, and acquaintance rape.".

**SEC. 202. ADVISORY COMMITTEE; REPORTS.**

Section 394 of the Public Health Service Act, as redesignated by section 201(1) of this Act, is amended to read as follows:

"GENERAL PROVISIONS

"SEC. 394. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish an advisory committee to advise the Secretary and such Director with respect to the prevention and control of injuries.

"(b) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may provide technical assistance to public and nonprofit private entities with respect to the planning, development, and operation of any program or service carried out pursuant to this part. The Secretary may provide such technical assistance directly or through grants or contracts.

"(c) Not later than February 1 of 1995 and of every second year thereafter, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this part during the preceding 2 fiscal years. Such report shall include a description of such activities that were carried out with respect to interpersonal violence within families and among acquaintances and with respect to rural areas.".

**SEC. 203. TECHNICAL CORRECTIONS.**

(a) TERMINOLOGY.—Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.), as redesignated by section 2008(i)(2)(B)(i) of Public Law 103-43 (107 Stat. 213), is amended—

(1) in the heading for such part, by striking "INJURY CONTROL" and inserting "PREVENTION AND CONTROL OF INJURIES"; and

(2) in section 392—

(A) in the heading for such section, by inserting "PREVENTION AND" before "CONTROL ACTIVITIES";

(B) in subsection (a)(1), by inserting "and control" after "prevention"; and

(C) in subsection (b)(1), by striking "injuries and injury control" and inserting "the prevention and control of injuries".

(b) PROVISIONS RELATING TO PUBLIC LAW 102-531.—Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.), as amended by section 301 of Public Law 102-531 (106 Stat. 3482) and as redesignated by section 2008(i)(2)(B)(i) of Public Law 103-43 (107 Stat. 213), is amended—

(1) in section 392(b)(2), by striking "to promote injury control" and all that follows and inserting "to promote activities regarding the prevention and control of injuries; and"; and

(2) in section 391(b), by adding at the end the following sentence: "In carrying out the preceding sentence, the Secretary shall disseminate such information to the public, including through elementary and secondary schools.".

**SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

Section 394A of the Public Health Service Act, as redesignated by section 201(1) of this Act, is amended by striking "To carry out" and all that follows and inserting the following: "For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

**TITLE III—TUBERCULOSIS**

**SEC. 301. PREVENTIVE HEALTH SERVICES REGARDING TUBERCULOSIS.**

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 242 et seq.), as amended by section 308 of Public Law 102-531 (106 Stat. 3495), is amended by inserting after section 317D the following section:

"PREVENTIVE HEALTH SERVICES REGARDING TUBERCULOSIS

"SEC. 317E. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, political subdivisions, and other public entities for preventive health service programs for the prevention, control, and elimination of tuberculosis.

"(b) RESEARCH, DEMONSTRATION PROJECTS, EDUCATION, AND TRAINING.—With respect to the prevention, control, and elimination of tuberculosis, the Secretary may, directly or through grants to public or nonprofit private entities, carry out the following:

"(1) Research, with priority given to research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations.

"(2) Demonstration projects.

"(3) Public information and education programs.

"(4) Education, training, and clinical skills improvement activities for health professionals, including allied health personnel and emergency response employees.

"(5) Support of centers to carry out activities under paragraphs (1) through (4).

"(6) Collaboration with international organizations and foreign countries in carrying out such activities.

"(c) COOPERATION WITH PROVIDERS OF PRIMARY HEALTH SERVICES.—The Secretary may make a grant under subsection (a) or (b) only if the applicant for the grant agrees that, in carrying out activities under the grant, the applicant will cooperate with public and nonprofit private providers of primary health services or substance abuse services, including entities receiving assistance under section 329, 330, 340, or 340A or under title V or XIX.

"(d) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) or (b) only if an application for the grant is submitted to the Secretary and the application, subject to paragraph (2), is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the subsection involved.

"(2) PLAN FOR PREVENTION, CONTROL, AND ELIMINATION.—The Secretary may make a grant under subsection (a) only if the application under paragraph (1) contains a plan regarding the prevention, control, and elimination of tuberculosis in the geographic area with respect to which the grant is sought.

"(e) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—Upon the request of a grantee under subsection (a) or (b), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out the subsection involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(f) ADVISORY COUNCIL.—

"(1) IN GENERAL.—The Secretary shall establish an advisory council to be known as the Advisory Council for the Elimination of Tuberculosis (in this subsection referred to as the "Council").

"(2) GENERAL DUTIES.—The Council shall provide advice and recommendations regarding the elimination of tuberculosis to the Secretary, the Assistant Secretary for Health, and the Director of the Centers for Disease Control and Prevention.

"(3) CERTAIN ACTIVITIES.—With respect to the elimination of tuberculosis, the Council shall—

"(A) in making recommendations under paragraph (2), make recommendations regarding policies, strategies, objectives, and priorities;

"(B) address the development and application of new technologies; and

"(C) review the extent to which progress has been made toward eliminating tuberculosis.

"(4) COMPOSITION.—The Secretary shall determine the size and composition of the Council, and the frequency and scope of official meetings of the Council.

"(5) STAFF, INFORMATION, AND OTHER ASSISTANCE.—The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

"(g) FUNDING.—

"(1) IN GENERAL; ALLOCATION FOR EMERGENCY GRANTS.—

"(A) For the purpose of making grants under subsection (a), there are authorized to be appropriated $200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(B) Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary may reserve not more than $50,000,000 for emergency grants under subsection (a) for any geographic area in which there is, relative to other areas, a substantial number of cases of tuberculosis or a substantial rate of increase in such cases.

"(2) RESEARCH, DEMONSTRATION PROJECTS, EDUCATION, AND TRAINING.—For the purpose of making grants under subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1998.".

(b) CONFORMING AMENDMENTS.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended—

(1) in subsection (j)—

(A) by striking paragraph (2);

(B) by striking "(j)(1)(A)" and inserting "(j)(1)";

(C) by striking "(B) For grants" and inserting "(2) For grants"; and

(D) in paragraph (1) (as so redesignated), by striking "established in subparagraph (B)" and inserting "established in paragraph (2)";

(2) in subsection (k)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(C) in paragraph (4) (as so redesignated), by striking "of section 317" each place such term appears; and

(3) by striking subsection (l).

**SEC. 302. RESEARCH THROUGH NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.**

(a) CERTAIN DUTIES.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f) is amended by inserting after section 446 the following section:

"RESEARCH AND RESEARCH TRAINING REGARDING TUBERCULOSIS

"SEC. 447. (a) In carrying out section 446, the Director of the Institute shall conduct or support research and research training regarding the cause, diagnosis, early detection, prevention and treatment of tuberculosis.

"(b) For the purpose of carrying out subsection (a), there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998. Such authorization is in addition to any other authorization of appropriations that is available for such purpose.".

**SEC. 303. RESEARCH THROUGH THE FOOD AND DRUG ADMINISTRATION.**

The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall implement a tuberculosis drug and device research program under which the Commissioner may—

(1) provide assistance to other Federal agencies for the development of tuberculosis protocols;

(2) review and evaluate medical devices designed for the diagnosis and control of airborne tuberculosis; and

(3) conduct research concerning drugs or devices to be used in diagnosing, controlling and preventing tuberculosis.

## TITLE IV—SEXUALLY TRANSMITTED DISEASES

**SEC. 401. EXTENSION OF PROGRAM OF GRANTS REGARDING PREVENTION AND CONTROL OF SEXUALLY TRANSMITTED DISEASES.**

(a) INNOVATIVE, INTERDISCIPLINARY APPROACHES.—Section 318 of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following subsection:

"(d) The Secretary may make grants to States and political subdivisions of States for the development, implementation, and evaluation of innovative, interdisciplinary approaches to the prevention and control of sexually transmitted diseases.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 318(e) of the Public Health Service Act, as redesignated by subsection (a)(1) of this section, is amended by amending paragraph (1) to read as follows: "(1) For the purpose of making grants under subsections (b) through (d), there are authorized to be appropriated $85,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

(c) TECHNICAL CORRECTIONS.—Section 318 of the Public Health Service Act, as amended by subsection (a) of this section, is amended—

(1) in subsection (b)(3), by striking ", and" and inserting "; and";

(2) in subsection (c)(3), by striking ", and" and inserting "; and"; and

(3) in subsection (d)(5)—

(A) in subparagraph (A), by striking "form, or" and inserting "form; or"; and

(B) in subparagraph (B), by striking "purposes," and inserting "purposes;".

**SEC. 402. EXTENSION OF PROGRAM REGARDING PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.**

(a) TECHNICAL CORRECTIONS.—Section 318A of the Public Health Service Act (42 U.S.C. 247c-1), as added by section 304 of Public Law 102-531 (106 Stat. 3490), is amended in subsection (o)(2) by striking "subsection (s)" and inserting "subsection (q)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 318A of the Public Health Service Act (42 U.S.C. 247c-1), as added by section 304 of Public Law 102-531 (106 Stat. 3490), is amended—

(1) in subsection (q), by striking "and 1995" and inserting "through 1998"; and

(2) in subsection (r)(2), by striking "through 1995" and inserting "through 1998".

## TITLE V—NATIONAL CENTER FOR HEALTH STATISTICS

**SEC. 501. REVISION AND EXTENSION OF PROGRAMS.**

(a) IN GENERAL.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (c), by striking "Committee on Human Resources" and inserting "Committee on Labor and Human Resources";

(2) in subsection (g), by striking "data which shall be published" and all that follows and inserting "data.";

(3) in subsection (i), by striking "engaged in health planning activities";

(4) in subsection (k)(2)—

(A) in subparagraph (A), in the last sentence, by striking "Except" and all that follows through "members" and inserting "Members";

(B) by striking subparagraph (B); and

(C) by striking the remaining subparagraph designation; and

(5)(A) by striking subsection (l);

(B) by redesignating subsections (m) through (o) as subsections (l) through (n), respectively;

(C) in subsection (l) (as so redesignated), in the last sentence, by striking "(n)" and inserting "(m)"; and

(D) in subsection (n) (as so redesignated)—

(i) in paragraph (1), by striking "(m)" and inserting "(l)"; and

(ii) in paragraph (2)—

(I) by striking "(n)" and inserting "(m)"; and

(II) by striking "(n)(2)" and inserting "(m)(2)".

(b) GENERAL AUTHORITY RESPECTING RESEARCH, EVALUATIONS, AND DEMONSTRATIONS.—Section 304 of the Public Health Service Act (42 U.S.C. 242b) is amended by striking subsection (d).

(c) GENERAL PROVISIONS RESPECTING EFFECTIVENESS, EFFICIENCY, AND QUALITY OF HEALTH SERVICES.—Section 308 of the Public Health Service Act (42 U.S.C. 242m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively; and

(B) in paragraph (2), by striking "reports required by subparagraphs" and all that follows through "Center" and inserting the following: "reports required in paragraph (1) shall be prepared through the National Center";

(2)(A) by striking subsection (c);

(B) by transferring paragraph (2) of subsection (g) from the current location of the paragraph;

(C) by redesignating such paragraph as subsection (c);

(D) by inserting subsection (c) (as so redesignated) after subsection (b); and

(E) by striking the remainder of subsection (g);

(3) in subsection (c) (as so redesignated)—

(A) by striking "shall (A) take" and inserting "shall take"; and

(B) by striking "and (B) publish" and inserting "and shall publish";

(4) in subsection (f), by striking "sections 3648" and all that follows and inserting the following: "section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5).''; and

(5) by striking subsection (h).

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 306(n) of the Public Health Service Act, as redesignated by subsection (a)(5)(B), is amended—

(1) in paragraph (1), by striking "through 1993" and inserting "through 1998"; and

(2) in paragraph (2), in the first sentence—

(A) by striking "and" after "1992,"; and

(B) by inserting before the period the following: ", and $10,000,000 for each of the fiscal years 1994 through 1998".

## TITLE VI—TRAUMA CARE SYSTEMS

**SEC. 601. REVISIONS IN PROGRAMS RELATING TO TRAUMA CARE.**

(a) GENERAL AUTHORITY.—Section 1201 of the Public Health Service Act (42 U.S.C. 300d) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting after "Secretary" the following: ", acting through the Administrator of the Health Resources and Services Administration,"; and

(2) by adding at the end the following subsection:

"(c) ADMINISTRATION.—The Administrator of the Health Resources and Services Administration shall ensure that this title is administered by the Division of Trauma and Emergency Medical Systems within such Administration. Such Division shall be headed by a director appointed by the Secretary from among individuals who are knowledgeable by training or experience in the development and operation of trauma and emergency medical systems.".

(b) ADVISORY COUNCIL.—Section 1201 of the Public Health Service Act (42 U.S.C. 300d) is amended—

(1) by striking section 1202; and

(2) by redesignating sections 1203 and 1204 as sections 1202 and 1202, respectively;

(c) REPORTS BY STATES; EVALUATIONS BY COMPTROLLER GENERAL.—Section 1216(c) of the Public Health Service Act (42 U.S.C. 300d–16) is amended by striking "1993" and inserting "1994".

(d) REPORT BY SECRETARY.—Section 1222 of the Public Health Service Act (42 U.S.C. 300d–22) is amended—

(1) in the first sentence, by striking "1992" and inserting "1995"; and

(2) by inserting after the first sentence the following sentence: "Such report shall include an assessment of the extent to which Federal and State efforts to develop systems of trauma care and to designate trauma centers have reduced the incidence of mortality, and the incidence of permanent disability, resulting from trauma.".

(e) WAIVER REGARDING PURPOSE OF GRANTS.—Section 1233 of the Public Health Service Act (42 U.S.C. 300d–33) is repealed.

(f) TECHNICAL CORRECTIONS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(1) in section 1204(c), by inserting before the period the following: "determines to be necessary to carry out this section";

(2) in section 1212(a)(2)(A), by striking "1211(c)" and inserting "1211(b)";

(3) in section 1213(a)—

(A) in paragraph (4), by striking "Act" and inserting "Act)";

(B) in paragraphs (8) and (9), by striking "to provide" each place such term appears and inserting "provides for"; and

(C) in paragraph (10), by striking "to conduct" and inserting "conducts"; and

(4) in section 1231(3), by striking "Rico;" and inserting "Rico,".

**SEC. 602. AUTHORIZATION OF APPROPRIATIONS.**

Section 1232(a) of the Public Health Service Act (42 U.S.C. 300d–32(a)) is amended by striking "for the purpose" and all that follows and inserting the following: "For the purpose of carrying out parts A and B, there are authorized to be appropriated $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

## TITLE VII—MISCELLANEOUS PROVISIONS

**SEC. 701. EVALUATIONS.**

Effective October 1, 1994, section 241 of the Public Health Service Act (42 U.S.C. 238j), as transferred and redesignated by section 2010(a) of Public Law 103–43 (107 Stat. 213)), is amended to read as follows:

"EVALUATION OF PROGRAMS

"SEC. 241. (a) IN GENERAL.—Such portion as the Secretary shall determine, but not less than 0.2 percent nor more than 1 percent, of any amounts appropriated for programs authorized under this Act shall be made available for the evaluation (directly, or by grants of contracts) of the implementation and effectiveness of such programs.

"(b) REPORT ON EVALUATIONS.—Not later than February 1 of each year, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the findings of the evaluations conducted under subsection (a).".

**SEC. 702. FEDERAL BENEFITS FOR OVERSEAS ASSIGNEES.**

Section 307 of the Public Health Service Act (42 U.S.C. 242l) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may provide to personnel appointed or assigned by the Secretary to serve abroad, allowances and benefits similar to those provided under chapter 9 of title I of the Foreign Service Act of 1990 (22 U.S.C. 4081 et seq.). Leaves of absence for personnel under this subsection shall be on the same basis as that provided under subchapter I of chapter 63 of title 5, United States Code to individuals serving in the Foreign Service.".

**SEC. 703. LOAN REPAYMENT PROGRAM.**

Part B of title III of the Public Health Service Act, as amended by section 301 of this Act, is amended by inserting after section 317E the following section:

"LOAN REPAYMENT PROGRAM

"SEC. 317F. (a) IN GENERAL.—

"(1) AUTHORITY.—Subject to paragraph (2), the Secretary may carry out a program of entering into contracts with appropriately qualified health professionals under which such health professionals agree to conduct prevention activities, as employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B) agrees to serve as an employee of the Centers for Disease Control and Prevention or the Agency for Toxic Substances and Disease Registry for purposes of paragraph (1) for a period of not less than 3 years.

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III of this Act, the provisions of such subpart shall, except as inconsistent with subsection (a), apply to the program established in this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

**SEC. 704. ESTABLISHMENT OF REQUIREMENT OF BIENNIAL REPORT ON NUTRITION AND HEALTH.**

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.), as amended by section 302 of Public Law 102–531 (106 Stat. 3483), is amended by adding at the end the following section:

"BIENNIAL REPORT REGARDING NUTRITION AND HEALTH

"SEC. 1709. (a) BIENNIAL REPORT.—The Secretary shall require the Surgeon General of the Public Health Service to prepare biennial reports on the relationship between nutrition and health. Such reports may, with respect to such relationship, include any recommendations of the Secretary and the Surgeon General.

"(b) SUBMISSION TO CONGRESS.—The Secretary shall ensure that, not later than February 1 of 1995 and of every second year thereafter, a report under subsection (a) is submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

**SEC. 705. ALIGNMENT OF CURRENT CENTERS FOR DISEASE CONTROL AND PREVENTION REAUTHORIZATION SCHEDULE.**

(a) SCREENINGS, EDUCATION, AND REFERRALS REGARDING LEAD POISONING.—Section 317A(l)(1) of the Public Health Service Act (42 U.S.C. 247b–1(l)(1)) is amended by striking "through 1997" and inserting "through 1998".

(b) PROSTATE CANCER PREVENTION.—Section 317D(l)(1) of the Public Health Service Act (42 U.S.C. 247b–5(l)(1)) is amended by striking "through 1996" and inserting "through 1998".

(c) CANCER REGISTRIES.—Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e–4(a)) (as amended by section 2003(1) of Public Law 103–43) is amended by striking "through 1996" and inserting "through 1998".

(d) HEALTH PROMOTION AND DISEASE PREVENTION RESEARCH AND DEMONSTRATION CENTERS.—Section 1706(e) of the Public Health Service Act (42 U.S.C. 300u–5(e)) is amended by striking "through 1996" and inserting "through 1998".

(e) TITLE XIX PROGRAM.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "through 1997" and inserting "through 1998".

(f) SENSE OF CONGRESS REGARDING SCHEDULE FOR LEGISLATION.—It is the sense of the Congress that, during the fiscal years 1994 through 1997, authorizations of appropriations for the programs of the Centers for Disease Control and Prevention should be provided only through fiscal year 1998, and that for fiscal year 1999 and subsequent fiscal years such programs, when considered by the Congress through legislation providing further authorizations of appropriations, should be so considered during a single year.

**SEC. 706. MISCELLANEOUS PAYMENT PROVISIONS**

(a) PAYMENT OF CERTAIN JUDGMENTS.—Section 224(k)(2) of the Public Health Service Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

(b) COMPENSATION REGARDING CERTAIN ADVISORY COUNCIL.—Section 337(b)(2) of the Public Health Service Act (42 U.S.C. 254j(b)(2) is amended—

(1) by inserting before "the daily equivalent" the following: "compensation at a rate fixed by the Secretary (but not to exceed"; and

(2) by striking "Schedule;" and inserting "Schedule);".

**SEC. 707. INTERIM FINAL REGULATIONS.**

The Secretary of Health and Human Services is authorized to issue interim final regulations—

(1) under which the Secretary may approve accreditation bodies under section 354(e) of the Public Health Service Act (42 U.S.C. 263b(e)); and

(2) establishing quality standards under section 354(f) of the Public Health Service Act (42 U.S.C. 263b(f)).

**SEC. 708. SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.**

(a) INFORMATION.—Section 2126(b) of the Public Health Service Act (42 U.S.C. 300aa–26(b)) is amended—

(1) by striking "by rule" in the matter preceding paragraph (1); and

(2) by striking, in paragraph (1), ", opportunity for a public hearing, and 90" and inserting "and 60".

(b) REQUIREMENTS.—Section 2126(c) of the Public Health Service Act (42 U.S.C. 300aa–26(c)) is amended—

*(1) by inserting "shall be based on available data and information," after "such materials" in the matter preceding paragraph (1); and*

*(2) by striking paragraphs (1) through (10) and inserting the following:*

*"(1) a concise description of the benefits of the vaccine,*

*"(2) a concise description of the risks associated with the vaccine,*

*"(3) a statement of the availability of the National Vaccine Injury Compensation Program, and*

*"(4) such other relevant information as may be determined by the Secretary.".*

*(c) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 of the Public Health Service Act (42 U.S.C. 300aa-26) are each amended by inserting "or to any other individual" after "to the legal representatives of any child".*

*(d) PROVIDERS DUTIES.—Subsection (d) of section 2126 of the Public Health Service Act (42 U.S.C. 300aa-26) is amended—*

*(1) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases."; and*

*(2) by striking "or other information" in the last sentence.*

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE KREIDLER,
CARLOS J. MOORHEAD,
TOM BLILEY,
*Managers on the part of the House.*

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
NANCY LANDON KASSEBAUM,
ORRIN HATCH,
*Managers on the part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

### TITLE I.—BREAST AND CERVICAL CANCER

Both House and Senate provisions, as well as the combination of provisions in the conference agreement, reflect the concern of the Congress about the alarming rates of morbidity and mortality from breast and cervical cancer. Both of these women's diseases can be much more effectively treated and controlled with early diagnosis. The conferees wish to emphasize that the public health programs authorized by this legislation must do more to provide for effective education about the need for routine preventive health care, including self-examination for breast cancer and regular medical evaluation for early diagnosis of cervical and breast cancer.

### TITLE II.—INJURY PREVENTION AND CONTROL

The programs of the CDC related to prevention of injuries focus on a wide variety of sources of injury, including violence. The provisions of this legislation emphasize the need for greater focus on domestic violence, including sexual assault and other violence against women.

### TITLE III.—TUBERCULOSIS

The conference agreement adopts Senate provisions authorizing additional resources and establishing new programs for a frontal assault on the extraordinary increase in cases of tuberculosis, a disease that only a few years ago was believed to be under control. In addition to their direct effects, the HIV epidemic and the problem of homelessness have had a devastating impact through sequelae such as tuberculosis. TB has reached near-epidemic proportions in certain parts of the country, its treatment has become increasingly difficult as the organism causing the disease has become resistant to available treatment, and it has spread at an alarming rate in crowded cities and institutions such as prisons. The conference agreement authorizes additional research in causes, prevention, and treatment of TB, including establishment of a new research emphasis at the Food and Drug Administration focusing on the development of diagnostic devices and drugs to treat drug-resistant strains of TB.

### TITLE IV.—SEXUALLY TRANSMITTED DISEASES

The conferees note the importance of existing STD prevention programs, and the need for area- and state-specific approaches to control of these diseases. Thus, the reauthorization of the CDC state grant program is crucial to the success of efforts to control STDs, which are reaching seriously high rates among adolescents and young adults. These diseases have particular consequences for women and infants, and are especially serious among minority populations. The conferees agree that the Senate provision, which establishes an accelerated prevention program, is critical to allow CDC to assist in enhancing and providing for the adoption of innovative approaches to education, prevention, and control of STDs.

### TITLE V.—NATIONAL CENTER FOR HEALTH STATISTICS

The conference agreement reauthorizes NCHS programs.

### TITLE VI.—TRAUMA CARE SYSTEMS

In reauthorizing the trauma care program, the conferees have included a provision that retains the current administrative locus of the trauma care program at the Health Resources and Services Administration. The legislation also requires that the Secretary will appoint a director for the program, which is to be operated as a separate and distinct division. The conferees expect that this appointment will be made at the earliest possible time.

### TITLE VII.—MISCELLANEOUS PROVISIONS

Among a variety of technical and minor amendments to the Public Health Service Act, the conferees adopted an amendment that affects the ability of the Secretary to implement the Mammography Quality Standards Act (MQSA).

The conferees believe that the public health need to set federal standards for mammography requires immediate action. The statute, therefore, is being amended to provide HHS with the authority to issue temporary, but immediately enforceable, interim regulations setting forth accrediting body and quality standards for mammography under subsections (e) and (f) of the MQSA.

The conferees find that existing standards, established by HDFA, private voluntary accrediting bodies, and some states, should serve as the models for these initial standards issued under this abbreviated process. Further, the conferees believe that the full consultation on these standards with the new Mammography Quality Assurance Advisory Committee required by the MQSA may be dispensed with for preliminary rulemaking only. The conferees intend that, following issuance of initial standards, the Secretary will proceed with the more extensive rulemaking and standard-setting envisioned by the MQSA, including consultation with the Advisory Committee.

The interim regulations authority provided by this conference report will permit the Secretary to expedite establishment of legally binding initial accreditation and quality standards, based on currently known and used standards, as rapidly as feasible. These initial standards can then be used to accredit and certify facilities before the October 1, 1994, deadline, while the Secretary can simultaneously continue to evaluate and develop the final regulations in consultation with the Advisory Committee, to be final by October 1, 1995.

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE KREIDLER,
CARLOS J. MOORHEAD,
TOM BLILEY,
*Managers on the part of the House.*

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*Managers on the part of the Senate.*

## LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I ask for this time for the purposes of ascertaining from the majority leader the schedule for the rest of today and tomorrow, and I will be happy to yield to the majority leader.

Mr. GEPHARDT. I thank the gentleman for yielding.

It might be well to give Members a sense of the schedule.

On tomorrow, the House will meet at 2 o'clock. We will have suspensions to begin the day which obviously will be approved and consulted, in consultation with the minority. Probably those suspensions will go to a period of around 4 o'clock.

The votes, if there are any, will be rolled or postponed until that time. So Members could expect votes starting in the 4 o'clock neighborhood and then we will do the remaining 30 minutes of debate on D.C. statehood, and then there

will be a vote on D.C. statehood, and then there may be some additional votes on suspensions.

Actually we will have the votes, I am now seeing here, after the D.C. vote, so at about 4 o'clock we will do the remaining 30 minutes on D.C. statehood, and then do D.C. statehood, and then have the votes that are left from the suspensions that started at 2 o'clock, and then we will go to the campaign reform rule and bill.

Mr. WALKER. If I understand now, we probably then would not get to voting until about 4:30 at the earliest?

Mr. GEPHARDT. That is about right.

Mr. WALKER. Suspensions would go for the first 2 hours, and then we would have a half-hour on D.C., and then the vote on the D.C. bill, and then any votes left over from suspensions?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. The suspensions list is the one that we have before us that has been cleared; it includes bills left over from today plus several more that were scheduled that are on the list for Sunday? Is that correct?

Mr. GEPHARDT. That is correct.

Mr. WALKER. And the other thing we are concerned about is we have seen some indication that there is a concern about the fact that there has not been adequate time to review the Penny-Kasich proposal, and yet our understanding is that we still have not seen any language for the leadership proposal that would be at the base of the Penny-Kasich proposal. Can the gentleman give us some idea as to when the Members might have an opportunity to look at that base bill since that may be coming up as soon as Monday?

□ 1700

Mr. GEPHARDT. If the gentleman will yield, it is our intent to file the rule today, which would obviously contain the language on all the matters in the bill, our reference.

Mr. WALKER. That rule will be filed later on tonight.

Mr. GEPHARDT. That is correct.

Mr. WALKER. And that will contain all of the language that would be included in the base bill to which the Penny-Kasich proposal would be attached.

Mr. GEPHARDT. That is correct.

Mr. WALKER. I thank the majority leader, and I yield to the gentleman from California.

Mr. COX. I thank the gentleman for yielding.

I wonder if I might ask the majority leader how Members might get a copy of that bill.

Mr. WALKER. I yield to the majority leader.

Mr. GEPHARDT. The rule will reference the text of the base bill and then all amendments.

Mr. COX. And therefore might we this evening get a copy from the Rules Committee?

Mr. GEPHARDT. The Rules Committee staff should be able to give you the actual words.

Mr. COX. I appreciate that.

Mr. WALKER. In other words, that text will be available to the Members as of tomorrow, the text of the base bill will be in the Members' hands as of tomorrow.

Mr. GEPHARDT. Yes, sir.

Mr. WALKER. And that would include all the language with regard to further rescissions and cuts and all of that.

Mr. GEPHARDT. Right.

Mr. WALKER. I thank the majority leader.

Mr. GEPHARDT. I failed to say, but I should have said, there are no more votes today.

Mr. WALKER. I think that is something the membership wanted to know as well.

I thank the majority leader and yield back the balance of my time.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 118

Mr. FILNER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 118.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from California?

There was no objection.

## MAKING IN ORDER ON SUNDAY, NOVEMBER 21, 1993, VARIOUS MOTIONS TO SUSPEND THE RULES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order tomorrow, Sunday, November 21, 1993, for the Speaker to entertain motions to suspend the rules pursuant to clause 1 of rule XXVII and to pass the following bills:

H.R. 3474, Community Development Banking;

H.R. 2960, Amendments to Competitiveness Policy Council Act;

H.R. 3548, Miscellaneous Coin Bill;

H.R. 1926, National Narcotics Leadership Act;

H.R. 2202, Preventive Health Amendments;

H.R. 3505, Developmental Disabilities Reauthorization;

H.R. 3216, Domestic Chemical Diversion Control Act;

H.R. 2178, Hazardous Materials Transportation Act;

H. Con. Res. 131, Regarding Sudan;

H. Con. Res. 175, Anti-Boycott Resolution;

H.R. 3106, Thomas Jefferson Commemorative Commission;

H.R. 1645, Poverty Data Improvement Act; and

H. Res. 285, FBI to Cooperate with U.S. Postal Service to Disseminate Information Re: Polly Klaas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## HIGHER EDUCATIONAL TECHNICAL AMENDMENTS OF 1993

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1507) to make technical amendments to the Higher Education Amendments of 1992 and the Higher Education Act of 1965, and for other purposes and concur in the Senate amendment to the House amendments thereto.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

***SECTION 1. SHORT TITLE; REFERENCES.***

*(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments of 1993".*

*(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.*

***SEC. 2. TECHNICAL AMENDMENTS.***

*(a) AMENDMENTS TO TITLES I, II, AND III OF THE ACT.—Titles I, II, and III of the Act (20 U.S.C. 1001 et seq., 1021 et seq., 1051 et seq.) are amended—*

*(1) in section 103(b)(2), by increasing the indentation of subparagraphs (A) through (E) by two em spaces;*

*(2) in section 104(b)(5)(C), by striking "subpart" and inserting "part";*

*(3) in section 241(a)(2)(B), by striking "information service" and inserting "information science";*

*(4) in section 301(a)(2), by striking the comma after "planning";*

*(5) in section 312(c)(2), by inserting "the" before "second fiscal year" the second place it appears;*

*(6) in section 313(b), by inserting ", except that for the purpose of this subsection a grant under section 354(a)(1) shall not be considered a grant under this part" before the period.*

*(7) in section 316(c), by striking "Such programs may include—" and inserting the following:*

*"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—";*

*(8) by reducing by two em spaces the indentation of each of the following provisions: sections 323(b)(3), 331(a)(2)(D), and 331(b)(5);*

*(9) in section 326(e)(2)—*

*(A) by inserting "and" after the semicolon at the end of subparagraph (A);*

*(B) by striking subparagraph (B); and*

*(C) by redesignating subparagraph (C) as subparagraph (B);*

*(10) in section 331(b)(2), by reducing the indentation of subparagraphs (B) and (C) by four em spaces; and*

*(11) in section 331(b)(5), by striking "an endowment" and inserting "An endowment".*

*(b) AMENDMENTS TO PART A OF TITLE IV OF THE ACT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended—*

*(1) in section 401(a)(1), by inserting ", except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment" before the period at the end of the second sentence;*

*(2) in section 401(b)(6), in the matter preceding subparagraph (A), by striking "single 12-month period" and inserting "single award year";*

*(3) in section 401(b)(6)(A), by striking "a baccalaureate" and inserting "an associate or baccalaureate";*

*(4) in section 401(b)(6)(B), by striking "a bachelor's" and inserting "an associate or baccalaureate";*

*(5) in section 401(i), by striking "part D of title V" and inserting "subtitle D of title V";*

*(6) in section 402A(b), by striking paragraph (2) and inserting the following:*

*"(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 4 years, except that—*

*"(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year; and*

*"(B) grants made under section 402G shall be awarded for a period of 2 years.";*

*(7) in the second sentence of section 402A(c)(1), by inserting before the period the following ", except that in the case of the programs authorized in sections 402E and 402G, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this chapter";*

*(8) in section 402A(c)(2)(A), by inserting "with respect to grants made under section 402G, and" after "Except";*

*(9) in section 402A, by amending subsection (e) to read as follows:*

*"(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—(1) Except in the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—*

*"(A) a signed statement from the individual's parent or legal guardian;*

*"(B) verification from another governmental source;*

*"(C) a signed financial aid application; or*

*"(D) a signed United States or Puerto Rico income tax return.*

*"(2) In the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—*

*"(A) a signed statement from the individual;*

*"(B) verification from another governmental source;*

*"(C) a signed financial aid application; or*

*"(D) a signed United States or Puerto Rico income tax return.";*

*(10) in section 402C(c), by striking "and foreign" and inserting "foreign";*

*(11) in section 402D(c)(2), by striking "either";*

*(12) in section 404A(1), by striking "high-school" and inserting "high school";*

*(13) in section 404B(a)(1)—*

*(A) by striking "section 403C" and inserting "section 404D"; and*

*(B) by striking "section 403D" and inserting "section 404C";*

*(14) in section 404B(a)(2), by inserting "shall" after "paragraph (1)";*

*(15) in section 404C(b)(3)(A), by striking "grades 12" and inserting "grade 12";*

*(16) in section 404C(b)(3)(D)(i), by striking "section 401D of this subpart" and inserting "section 402D";*

*(17) in section 404C(b)(3)(D)(ii), by striking "section 401D of this part" and inserting "section 402D";*

*(18) in section 404D(d)(3), by striking "program of instruction" and inserting "program of undergraduate instruction";*

*(19) in section 404D(d)(4), by striking "the" the first place it appears;*

*(20) in section 404E(c), by striking "tuition" and inserting "financial";*

*(21) in section 404F(a), by striking "under this section shall biannually" and inserting "under this chapter shall biennially";*

*(22) in section 404F(c), by striking "biannually" and inserting "biennially";*

*(23) in section 404G—*

*(A) by striking "an appropriation" and inserting "to be appropriated"; and*

*(B) by striking the second sentence and inserting the following: "For any fiscal year for which funds are authorized to be appropriated to carry out subpart 4 of part A of this title, no amount may be expended to carry out the provisions of this chapter unless the amount appropriated for such fiscal year to carry out such subpart 4 exceed $60,000,000.";*

*(24) in section 409A(1), by striking "private financial" and inserting "private student financial";*

*(25) in section 413C(d)—*

*(A) by striking ", a reasonable proportion of the institution's allocation shall be made available to such students, except that" and inserting "and"; and*

*(B) by striking "5 percent of the need" and inserting "5 percent of the total financial need";*

*(26) in section 413D(d)(3)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";*

*(27) in section 415C(b)(7), by striking the period at the end and inserting a semicolon;*

*(28) in section 419C(b)—*

*(A) by striking "for a period of not more than 4 years for the first 4 years of study" and inserting "for a period of not less than 1 or more than 4 years during the first 4 years of study"; and*

*(B) by adding at the end the following:*

*"The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—*

*"(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess;*

*"(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years."; and*

*(29) in section 419D, by adding at the end the following new subsection:*

*"(d) CONSOLIDATION BY INSULAR AREAS PROHIBITED.—Notwithstanding section 501 of Public Law 95-1134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government."; and*

*(30) in section 419G(b), by striking "the District of Columbia, the Commonwealth of Puerto Rico," and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands,".*

*(c) AMENDMENTS TO PART B OF TITLE IV OF THE ACT.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended—*

*(1) in section 422(c)(7), by striking the semicolon at the end of subparagraph (B) and inserting a period;*

*(2) in section 425(a)(1)(A)—*

*(A) by striking clauses (ii) and (iii) and inserting the following:*

*"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—*

*"(I) $3,500; or*

*"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;*

*"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—*

*"(I) $5,500; or*

*"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;" and*

*(B) by striking the semicolon at the end of clause (iv) and inserting a period;*

*(3) in section 425(a)(1), by inserting at the end thereof the following:*

*"(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";*

*(4) in the matter following subclause (II) of section 427(a)(2)(C)(i), by inserting "section" before "428B or 428C";*

*(5) in section 427A(e)(1), by striking "under this part," and inserting "under section 427, 428, or 428H of this part,";*

*(6) in section 427A(i)(1), by amending subparagraph (B) to read as follows:*

*"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or*

*"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.";*

*(7) in section 427A(i)(2)(B)—*

*(A) by striking "outstanding principal balance" and inserting "average daily principal balance"; and*

*(B) by striking "at the end of" and inserting "during";*

*(8) in section 427A(i)(4)(B)—*

*(A) by striking "outstanding principal balance" and inserting "average daily principal balance"; and*

*(B) by striking "at the end of" and inserting "during";*

*(9) in section 427A(i)(5)—*

*(A) in the first sentence—*

*(i) by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and*

*(ii) by striking "principle" and inserting "principal"; and*

*(B) in the second sentence by inserting before the period at the end the following: ", but the excess interest shall be calculated and credited to the Secretary";*

*(10) in section 427A(i), by adding at the end the following new paragraph:*

*"(7) CONVERSION TO VARIABLE RATE.—(A) Subject to subparagraphs (C) and (D), a lender*

*or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).*

*"(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).*

*"(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 433(b) if such disclosure has not been previously made.*

*"(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.*

*"(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.";*

*(11) in section 428(a)(2)(C)(i), by striking the period at the end and inserting "; and";*

*(12) in section 428(a)(2)(E), by inserting "or 428H" after "428A";*

*(13) in section 428(b)(1)(A)—*

*(A) by striking clauses (ii) and (iii) and inserting the following:*

*"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—*

*"(I) $3,500; or*

*"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;*

*"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—*

*"(I) $5,500; or*

*"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";*

*(B) by redesignating clause (iv) as clause (v); and*

*(C) by inserting after clause (iii) the following:*

*"(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree; and";*

*(14) in section 428(b)(1)(B), by striking the matter following clause (ii) and inserting the following:*

*"except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;";*

*(15) in section 428(b)(1), by amending subparagraph (N) to read as follows:*

*"(N) provides that funds borrowed by a student—*

*"(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or*

*"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;";*

*(16) in section 428(b)(1)(U)—*

*(A) by striking "this clause;" and inserting "this clause"; and*

*(B) by inserting a comma after "emergency action" each place it appears;*

*(17) in section 428(b)(1)—*

*(A) by striking subparagraphs (V) and (W); and*

*(B) by redesignating subparagraphs (X), (Y), and (Z) as subparagraphs (V), (W,) and (X), respectively;*

*(18) in section 428(b)(2)(F)(i), by striking "each to provide a separate notice" and inserting "either jointly or separately to provide a notice";*

*(19) in section 428(b)(2)(F)(ii), by striking "transferor" and inserting "transferee";*

*(20) in section 428(b)(2)(F)(ii)(I), by striking "to another holder";*

*(21) in section 428(b)(2)(F)(ii)(II), by striking "such other" and inserting "the new";*

*(22) in section 428(b), by amending paragraph (7) to read as follows:*

*"(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—*

*"(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or*

*"(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.*

*"(B) In the case of a loan made under section 428H, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.*

*"(C) In the case of a loan made under section 428A, 428B, or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.";*

*(23) in section 428(b), by adding at the end thereof the following new paragraph:*

*"(8) MEANS OF DISBURSEMENT OF LOAN PROCEEDS.—Nothing in this title shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.";*

*(24) in section 428(c)(1)(A), by striking the last sentence and inserting the following: "A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.";*

*(25) in section 428(c)(2)(G), by striking "demonstrates" and inserting "certifies";*

*(26) in section 428(c)(3) by striking subparagraph (A) and inserting the following:*

*"(A) shall contain provisions providing that—*

*"(i) upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—*

*"(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 427(a)(2)(C)(vii) or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 427(a)(2)(C) or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;*

*"(II) has a debt burden under this title that equals or exceeds 20 percent of income; or*

*"(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;*

*"(ii) the length of the forbearance granted by the lender—*

*"(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;*

*"(II) under clause (i)(II) shall not exceed 3 years; or*

*"(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and*

*"(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;";*

*(27) in section 428(e)(2)(A)—*

*(A) by striking "(i)";*

*(B) by striking "(I)" and inserting "(i)"; and*

*(C) by striking "(II)" and inserting "(ii)";*

*(28) in section 428(j)(2), in the matter preceding subparagraph (A), by striking "lender of last resort" and inserting "lender-of-last-resort";*

*(29) in section 428A(b)(1), by striking subparagraph (B) and inserting the following:*

*"(B) In the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—*

*"(i) $5,000; or*

*"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year.";*

*(30) in section 428A(b)(1)—*

*(A) by redesignating subparagraph (C) as subparagraph (D); and*

*(B) by inserting after subparagraph (B) the following new subparagraph:*

*"(C) For the purposes of this paragraph, the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.";*

*(31) in section 428A(b)(3)(B)(i), by striking "section 428" and inserting "sections 428 and 428H";*

*(32) in section 428A(c)(1), by striking "sections 427 or 428(b)" and inserting "section 427 or 428(b)";*

*(33) in section 428C(a)(3)(A), by striking "delinquent or defaulted borrower who will reenter repayment through loan consolidation" and inserting "defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans";*

*(34) in section 428C(a)(4)(A), by striking ", except for loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986";*

*(35) in section 428C(a)(4)(C), by striking "part C" and inserting "part A";*

*(36) in section 428C(c)(2)(A)(vi), by inserting a period after "30 years";*

*(37) in section 428C(c)(3)(A), by inserting "be an amount" before "equal to";*

*(38) in section 428F(a)(2)—*

*(A) by striking "this paragraph" and inserting "paragraph (1) of this subsection"; and*

*(B) by striking "this section" and inserting "this subsection";*

*(39) in section 428F(a)(4), by striking "this paragraph" and inserting "paragraph (1) of this subsection";*

*(40) in section 428F(b), by adding at the end thereof the following new sentence: "A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.";*

*(41) in section 428G(c)(3), by striking "disbursed" and inserting "disbursed by the lender";*

*(42) in section 428H(d)(2), by amending subparagraph (B) to read as follows:*

*"(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—*

*"(i) $5,000; or*

*"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;";*

*(43) in section 428H(e)(1)—*

*(A) by striking "shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution." and inserting "shall begin at the beginning of the repayment period described in section 428(b)(7).";*

*(B) by adding at the end thereof the following new sentence: "Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.";*

*(44) in section 428H(e)(4), by striking "427A(e)" and inserting "427A";*

*(45) in section 428H, by redesignating subsection (l) as subsection (h);*

*(46) in section 428I(g), by striking "the Federal False Claims Act" and inserting "section 3729 of title 31, United States Code,";*

*(47) in section 428J(b)(1), by striking "sections 428A, 428B, or 428C" and inserting "section 428A, 428B, or 428C";*

*(48) in section 428J(b)(1)(B), by striking "agrees in writing to volunteer for service" and inserting "serves as a full-time volunteer";*

*(49) in section 428J(c)(1), by striking "academic year" each place it appears and inserting "year of service";*

*(50) in the heading for section 428J(d), by striking "OF ELIGIBILITY" and inserting "TO ELIGIBLE";*

*(51) in section 428J, by amending subsection (e) to read as follows:*

*"(e) APPLICATION FOR REPAYMENT.—*

*"(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.*

*"(2) CONDITIONS.—An eligible individual may apply for repayment after completing each year of qualifying service. The borrower shall receive forbearance while engaged in qualifying service unless the borrower is in deferment while so engaged.";*

*(52) in section 430A(f)(1), by striking the comma at the end and inserting a semicolon;*

*(53) in the matter preceding paragraph (1) of section 433(b), by striking "60 days" and inserting "30 days";*

*(54) in section 433(e), by striking "section 428A, 428B," and inserting "sections 428A, 428B,";*

*(55) in section 435(a), by inserting after paragraph (2) the following new paragraph:*

*"(3) APPEALS BASED UPON ALLEGATIONS OF IMPROPER LOAN SERVICING.—An institution that—*

*"(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;*

*"(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 428A(a)(2); or*

*"(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;*

*may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B).";*

*(56) in section 435(d)(2)(D), by striking "lender; and" and inserting "lender;";*

*(57) in section 435(d)(2), by increasing the indentation of the matter following subparagraph (F) by two em spaces;*

*(58) in section 435(d)(3), by striking "435(o)" and inserting "435(m)";*

*(59) in section 435(m)(1)(A), by striking "428 or 428A" and inserting "428, 428A, or 428H.";*

*(60) in section 435(m)—*

*(A) by inserting at the end of paragraph (1)(A) the following new sentence: "The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.";*

*(B) in paragraph (1)(B), by striking "and, in calculating" and all that follows through the period at the end thereof and inserting the following: "and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.";*

*(61) in section 435(m)(2)(D)—*

*(A) by inserting "(or the portion of a loan made under section 428C that is used to repay a loan made under section 428A)" after "section 428A" the first place it appears; and*

*(B) by inserting "(or a loan made under section 428C a portion of which is used to repay a loan made under section 428A)" after "section 428A" the second place it appears;*

*(62) in section 435(m), by adding at the end thereof the following new paragraph:*

*"(4) COLLECTION AND REPORTING OF COHORT DEFAULT RATES.—(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.*

*"(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.*

*"(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.";*

*(63) in section 437, by amending subsection (b) to read as follows:*

*"(b) PAYMENT OF CLAIMS ON LOANS IN BANKRUPTCY.—The Secretary shall pay to the holder of a loan described in section 428(a)(1)(A) or (B), 428A, 428B, 428C, or 428H, the amount of the unpaid balance of principal and interest owed on such loan—*

*"(1) when the borrower files for relief under chapter 12 or 13 of title 11, United States Code;*

"(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

"(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.";

(64) in section 437(c)(1)—

(A) by striking "If a student borrower" and inserting "If a borrower";

(B) by striking "under this part is unable" and inserting "under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable"; and

(C) by striking "in which the borrower is enrolled" and inserting "in which such student is enrolled"; and

(65) in section 437(c)(4), by adding at the end the following new sentence: "The amount discharged under this subsection shall be treated the same as loans under section 465(a)(5) of this title.";

(66) in the matter preceding paragraph (1) of section 437A(a), by striking "under subsection (d)";

(67) in section 437A(c)(2), by inserting a period at the end;

(68) in section 437A, by striking subsection (e); and

(69) in section 439(r)(12), by striking "section 522" and inserting "section 552".

(d) AMENDMENT TO PART C OF TITLE IV OF THE ACT.—Part C of title IV of the Act (42 U.S.C. 2751 et seq.) is amended—

(1) in section 442(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(2) in section 442(e)—

(A) by inserting "(1)" before "If"; and

(B) by adding at the end the following new paragraph:

"(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.";

(3) in section 443(b)(2)(A), by striking "institution;" and inserting "institution; and";

(4) in section 443(b), by amending paragraph (5) to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that the Federal share may exceed such amounts of compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;"; and

(5) in section 443(b)(8), by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) that are only on campus and that—

"(i) to the maximum extent practicable, complement and reinforce the education programs or vocational goals of such students; and

"(ii) furnish student services that are directly related to the student's education, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; or

"(B) in community service in accordance with paragraph (2)(A) of this subsection;".

(e) AMENDMENT TO PART D OF TITLE IV OF THE ACT.—Section 453(b)(2)(B) of the Act (20 U.S.C. 1087c(b)(2)(B)) is amended to read as follows:

"(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.".

(f) AMENDMENTS TO PART E OF TITLE IV OF THE ACT.—Part E of title IV of the Act (20 U.S.C. 1087aa et seq.) is amended—

(1) in subsections (a)(1) and (a)(2)(D) of section 462, by striking "if the institution which has" each place it appears and inserting "if the institution has";

(2) in section 462(d)(4)(C), by striking "three-fourths in the Pell Grant family size offset" and inserting "150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college";

(3) in section 462(e), by reducing the indentation of paragraph (2) by two em spaces;

(4) in section 462(h)(4), by reducing the indentation of subparagraph (B) by two em spaces;

(5) in section 463(a)(2)(B)(i)(II), by striking "7.5 percent" and inserting "7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year";

(6) in section 463(c)(4), by striking "shall disclose" and inserting "shall disclose at least annually";

(7) in section 463, by adding at the end the following new subsections:

"(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

"(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.";

(8) in section 463A, by striking subsections (d) and (e);

(9) in section 464(c)(2)(B) by striking "repayment or" and inserting "repayment of";

(10) in section 464(c)(6), by striking "Fullbright" and inserting "Fulbright";

(11) in section 464(e), by striking "principle" and inserting "principal";

(12) in section 465(a)(2)(D), by striking "services" and inserting "service";

(13) in section 465(a)(2)(F), by striking "or" after the semicolon;

(14) in section 465(a), by reducing the indentation of paragraph (6) by 2 em spaces; and

(15) in section 466(c), by reducing the indentation of paragraph (2) by two em spaces.

(g) AMENDMENTS TO PART F OF TITLE IV OF THE ACT.—Part F of title IV of the Act (20 U.S.C. 1087kk et seq.) is amended—

(1) in section 472—

(A) in paragraph (10), by striking "and" after the semicolon;

(B) in paragraph (11), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.";

(2) in the table contained in sections 475(c)(4) and 477(b)(4), by inserting "$" before "9,510";

(3) in section 475(f)(3)—

(A) by striking "Income in the case of a parent" and inserting "If a parent";

(B) by striking "(1) of this subsection, or a parent" and inserting "(1) of this subsection, or if a parent"; and

(C) by striking "is determined as follows: The income" and inserting "the income";

(4) in section 475(g)(1)(B), by inserting a close parentheses after "paragraph (2)";

(5) in the table contained in section 475(g)(3), by adding a last row that is identical to the last row of the table contained in section 476(b)(2);

(6) in section 476, by adding at the end thereof the following new subsection:

"(d) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.";

(7) in section 477 by adding at the end thereof the following new subsection:

"(e) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.";

(8) in section 478—

(A) by striking "1992–1993" each place it appears and inserting "1993–1994"; and

(B) in subsection (c)(1), by inserting "December" before "1992";

(9) in section 478(h), by striking "Bureau of Labor Standards" and inserting "Bureau of Labor Statistics";

(10) in section 479(a)(1), by inserting "of" after "(c)";

(11) in section 479(b)(1)(B)(i)—

(A) by inserting "(and the student's spouse, if any)" after "student" each time it appears; and

(B) by striking "such";

(12) in section 479(b)(2), by striking "five elements" and inserting "six elements";

(13) in section 479(b)(2)(E), by striking the semicolon and inserting a comma;

(14) in section 479(b)(3)—

(A) in subparagraph (A), by inserting "(including any prepared or electronic version of such form)" before "required"; and

(B) in subparagraph (B), by inserting "(including any prepared or electronic version of such return)" before "required";

(15) in section 479(c)—

(A) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) the student's parents were not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and";

(B) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and"; and

(C) in subparagraph (B) of paragraphs (1) and (2), by inserting "in 1992 or the current year, whichever is higher," after "that may be earned"; and

(16) in section 479A, by adding at the end the following new subsection:

"(c) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—

"(1) IN GENERAL.—A student financial aid administrator shall be considered to be making an adjustment for special circumstances in accordance with subsection (a) if—

"(A) in the case of a dependent student—

"(i) such student received a Federal Pell Grant as a dependent student in academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992; and

"(B) in the case of a single independent student—

"(i) such student received a Federal Pell Grant as a single independent student in academic year 1992–1993 and qualified as an independent student in accordance with section 480(d) for academic year 1993–1994, and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

"(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992.

"(2) AMOUNT.—A financial aid administrator shall not make an adjustment for special circumstances pursuant to this subsection in an amount that exceeds one-half of the difference between the amount of a student's Federal Pell Grant for academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994.

"(3) ACADEMIC YEAR LIMITATION.—A financial aid administrator shall make adjustments under this subsection only for Federal Pell Grants awarded for academic years 1993–1994, 1994–1995, and 1995–1996.

"(4) SPECIAL RULE.—Adjustments under this subsection shall be made in any fiscal year only if an Act that contains an appropriation for such fiscal year to carry out this subsection is enacted on or after the date of enactment of the Higher Education Technical Amendments of 1993.

"(5) LIMITATION.—Adjustments under this subsection shall not be available for any academic year to any student who, on the basis of the financial circumstances of the student for the current academic year, would not have been eligible for a grant under this section in academic year 1992–1993.";

(17) in section 480(c)(2), by striking "Title" each place it appears and inserting "United States Code, title";

(18) in section 480(d)(2), by inserting "or was a ward of the court until the individual reached the age of 18" before the semicolon;

(19) in section 480(j), by reducing the indentation of paragraph (3) by 2 em spaces; and

(20) in section 480, by adding at the end the following new subsections:

"(k) DEPENDENTS.—(1) Except as otherwise provided, the term 'dependent of the parent' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

"(2) Except as otherwise provided, the term 'dependent of the student' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

"(l) FAMILY SIZE.—(1) In determining family size in the case of a dependent student—

"(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

"(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

"(2) In determining family size in the case of an independent student—

"(A) family members include the student, the student's spouse, and the dependents of the student; and

"(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(m) BUSINESS ASSETS.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.".

(h) AMENDMENTS TO PART G OF TITLE IV OF THE ACT.—Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended—

(1) in section 481(a)(3)(B), by inserting before the semicolon the following: ", except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree";

(2) in section 481(a)(3)(D)—

(A) by striking "are admitted pursuant to section 484(d)" and inserting "do not have a high school diploma or its recognized equivalent"; and

(B) by inserting before the period the following: ", except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent";

(3) in section 481(a)(4), by amending subparagraph (A) to read as follows:

"(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy; or";

(4) in section 481(d), by amending paragraph (2) to read as follows:

"(2) For the purpose of any program under this title, the term 'academic year' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.";

(5) in section 481(e) by striking paragraph (2) and inserting the following:

"(2)(A) A program is an eligible program for purposes of part B of this title if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

"(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

"(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

"(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

"(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.";

(6) in section 481(f), by striking "State" and inserting "individual, or any State,";

(7) in section 482(c), by adding at the end the following new sentence: "For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting parts B, G, and H of this title that are published in final form by May 1, 1994.";

(8) in section 483(a)(1), by striking "section 411(d)" and inserting "section 401(d)";

(9) in section 483(a)(2), by inserting at the end the following new sentence: "No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).";

(10) in section 483(a)(3), by inserting at the end the following sentence: "Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.";

(11) in section 483(f), by striking "address, social security number," and inserting "address or employer's address, social security number or employer identification number,";

(12) in section 483, by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively;

(13) in section 484(a)(4)(B), by inserting after "number" the following: ", except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau";

(14) in section 484(a)(5), by striking "in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident" and inserting "able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident";

(15) in section 484(b)(2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

*(C) by adding at the end the following new subparagraph:*

*"(C) has applied for a loan under section 428H, if such student is eligible to apply for such a loan.";*

*(16) in the matter following subparagraph (B) of section 484(b)(3), by striking "part B" and inserting "part B or D";*

*(17) in section 484, by striking subsection (f);*

*(18) in section 484(g), by inserting a comma after "Part D" each place it appears;*

*(19) in the matter preceding clause (i) of section 484(h)(4)(B), by striking "constitutes" and inserting "constitute";*

*(20) in section 484(i)(2)—*

*(A) by striking "(h)(4)(A)(ii)" and inserting "(h)(4)(A)(i)"; and*

*(B) by striking "documentation," and inserting "documentation, or";*

*(21) in section 484(i)(3)—*

*(A) by striking "(h)(4)(B)(ii)" and inserting "(h)(4)(B)(i)"; and*

*(B) by striking ", or" and inserting a period;*

*(22) in section 484(i), by striking paragraph (4);*

*(23) in section 484(n), by striking "part B, C," and inserting "parts B, C,";*

*(24) in section 484(q)(2), by striking "a correct social security number" and inserting "documented evidence of a social security number that is determined by the institution to be correct";*

*(25) in section 484, by redesignating subsections (g) through (q) as subsections (f) through (p), respectively;*

*(26) in section 484B(a), by striking "grant, loan, or work assistance" and inserting "grant or loan assistance";*

*(27) in section 484B(b)(3), by striking "subsection (d)" and inserting "subsection (c)";*

*(28) in clauses (i), (ii), and (iii) of section 485(a)(1)(F), by inserting before the comma at the end of each such clause the following: "for the period of enrollment for which a refund is required";*

*(29) in section 485(a)(1)(F)(iv), by inserting "under" after "awards";*

*(30) in section 485(a)(1)(F)(vii), by striking "provided under this title";*

*(31) in section 485(a)(1)(F)(viii), by striking the period;*

*(32) in section 485(a)(1)(F), by striking clause (vi) and redesignating clauses (vii) and (viii) as clauses (vi) and (vii), respectively;*

*(33) in section 485(a)(1)(L), by inserting a comma after "full-time";*

*(34) in section 485(a)(3), by amending subparagraph (A) to read as follows:*

*"(A) shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and";*

*(35) in paragraphs (1)(A) and (2)(A) of section 485(b), by striking "under parts" and inserting "under part";*

*(36) in section 485(d), by inserting a period at the end of the penultimate sentence;*

*(37) in section 485(e), by adding at the end the following new paragraph:*

*"(9) This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending June 30 of the preceding year.";*

*(38) in section 485B(a)—*

*(A) by striking "part E" and inserting "parts D and E"; and*

*(B) by striking the second period at the end of the third sentence;*

*(39) in section 485B(a)(4), by striking "part E" and inserting "parts D and E";*

*(40) in section 485B(c), by striking "part B or part E" and inserting "part B, D, or E";*

*(41) in section 485B(e), by striking "under this part" each place it appears and inserting "under this title";*

*(42) in section 487(a)(2), by striking ", or for completing or handling the Federal Student Assistance Report";*

*(43) in section 487(c)(1)(F), by striking "eligibility for any program under this title of any otherwise eligible institution," and inserting "participation in any program under this title of an eligible institution,";*

*(44) in section 489(a), by striking "484(c)" and inserting "484(h)";*

*(45) in section 491(d)(1), by striking "sections 411A through 411E and"; and*

*(46) in section 491(h)(1), by striking "subtitle III" and inserting "subchapter III".*

*(i) AMENDMENTS TO PART H OF TITLE IV OF THE ACT.—Part H of title IV of the Act (20 U.S.C. 1099a et seq.) is amended—*

*(1) in section 494C(a), by striking the first and second sentences and inserting the following: "The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b). If any such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d). The Secretary may determine that a State need not review an institution if such institution meets the criterion in subsection (b)(10) only, such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d).";*

*(2) in section 494C(i), by striking "sections 428 or 487" and inserting "section 428 or 487";*

*(3) in section 496(a)(2)(A)(i), by inserting "of institutions of higher education" after "membership";*

*(4) in section 496(a)(3)(A), by striking "subparagraph (A)" and inserting "subparagraph (A)(i)";*

*(5) in section 496(a)(5)—*

*(A) by striking the period at the end of subparagraph (L) and inserting a semicolon; and*

*(B) by inserting after subparagraph (L) the following:*

*"except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;";*

*(6) in the matter preceding paragraph (1) of section 496(c), by striking "for the purpose of this title" and inserting "as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title";*

*(7) in section 496(l)(2)—*

*(A) by striking "institutution" and inserting "institution"; and*

*(B) by striking "association leading to the suspension" and inserting "association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension";*

*(8) in section 496(n)(1), by amending subparagraph (B) to read as follows:*

*"(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.";*

*(9) in section 498(c)—*

*(A) in paragraph (2), by adding at the end the following new sentences: "Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.";*

*(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "may determine" and inserting "shall determine";*

*(C) by amending subparagraph (C) of paragraph (3) to read as follows:*

*"(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or";*

*(D) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and*

*(E) by inserting after paragraph (3) the following new paragraph:*

*"(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the ratio of current assets to current liabilities imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—*

*"(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;*

*"(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and*

*"(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the current operating ratio requirement.";*

*(10) in section 498(f), by inserting after the second sentence the following: "The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.";*

*(11) in section 498(h)(1)(B), by amending clause (iii) to read as follows:*

*"(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.";*

*(12) in section 498, by amending subsection (i)(1) to read as follows:*

*"(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this title after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 481 (other than the requirements in subsections (b)(5) and (c)(3)) and this section after such change in control.";*

*(13) in section 498(i)(3), by amending subparagraph (A) to read as follows:*

*"(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or";*

*(14) in section 498, by amending subsection (j)(1) to read as follows:*

"(j) TREATMENT OF BRANCHES.—(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this title, except that such branch shall not be required to meet the requirements of sections 481(b)(5) and 481(c)(3) prior to seeking such certification. Such branch is required to be in existence at least 2 years prior to seeking certification as a main campus or free-standing institution."; and

(15) in section 498A(e), by striking "Act," and inserting "Act".

(j) AMENDMENTS TO TITLES V THROUGH XII OF THE ACT.—Titles V through XII of the Act (20 U.S.C. 1101 et seq.) are amended—

(1) in section 505(b)(2)(D)(iii), by striking the period and inserting a semicolon;

(2) in section 525, by amending subsection (c) to read as follows:

"(c) WAIVERS.—For purposes of giving special consideration under section 523(d), a State may waive the criteria contained in the first sentence of subsection (b) for not more than 25 percent of individuals receiving Paul Douglas Teacher Scholarships on or after July 1, 1993.";

(3) in the first sentence of section 530A by striking "elementary and secondary school teachers" each place it appears and inserting "preschool, elementary, and secondary school teachers";

(4) in section 535(b)(1)(C), by striking the semicolon and inserting a period;

(5) in section 537(a), by inserting "IN" before "GENERAL";

(6) in section 545(d), by striking "parts B, D," and inserting "part B, D,";

(7) in section 580B, by striking "(a) AUTHORIZATION.—";

(8) in section 581(b)(2), by striking "402A(g)(2)" and inserting "402A(g)";

(9) in section 597(d)(1), by striking "Development and" and inserting "and Development";

(10) in section 602(a)(3), by striking "(1)(A)" and inserting "(1)";

(11) in section 602(a)(4), by striking "(1)(A)" and inserting "(1)";

(12) in the heading of subsection (a) of section 603, by striking "RESOURCES" and inserting "RESOURCE";

(13) in section 607(c), by redesignating the second paragraph (2) as paragraph (3);

(14) in section 714, by striking "(a) IN GENERAL.—";

(15) in section 715(b)—

(A) by striking "(1) STATE GRANTS.—";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2);

(C) in paragraph (2) (as so redesignated) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively; and

(D) by reducing the indentation of such paragraphs (1) and (2) (as so redesignated) by two em spaces;

(16) in section 725—

(A) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) shall require that the first loans for capital projects authorized under section 723 be made no later than March 31, 1994;";

(17) in section 726, by inserting a period after "title" the first time it appears and striking the remainder of the sentence;

(18) in section 731(a), by striking "faculties," and inserting "faculty,";

(19) in section 731(c), by striking "enactment of";

(20) in section 734(e)—

(A) by striking "FACULTIES" and inserting "FACULTY"; and

(B) by striking "faculties" and inserting "faculty";

(21) in section 781(b), by striking "Education Amendments of 1992," and inserting "Education Amendments of 1992";

(22) in section 782(1)(A), by striking "outpatient care of student" and inserting "outpatient care of students";

(23) in section 783—

(A) in subsection (a)(2), by inserting "on all such loans owed by such institution" after "outstanding indebtedness"; and

(B) by adding at the end thereof the following new subsection:

"(d) REDUCTION OF AMOUNTS OWED TO TREASURER.—If the Secretary forgives all or part of a loan described in subsection (a), the outstanding balance remaining on the notes of the Secretary that were issued to the Secretary of the Treasury under section 761(d) as in effect prior to the enactment of the Higher Education Amendments of 1992, or under any provision of this title as in effect at the time such note was issued, shall be reduced by such amount forgiven.";

(24) in the matter preceding paragraph (1) of section 802(b), by inserting after "fiscal year" the following: "the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on the date of enactment of the Higher Education Amendments of 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before such date of enactment. Of the remainder of the amount appropriated in such fiscal year";

(25) in section 803(b)(6)(A), by striking "data";

(26) in section 803(e)(2)—

(A) by striking "Mexican American" and inserting "Mexican-American"; and

(B) by striking "Mariana" and inserting "Marianian";

(27) in section 901(b)(2), by striking "such part" and inserting "such title";

(28) in section 922, by amending subsection (f) to read as follows:

"(f) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(i) $9,000 for the academic year 1993–1994; and

"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";

(29) in the second sentence of section 923(b)(1), by striking "granting of such fellowships" and all that follows through "set forth in this section," and inserting "granting of such fellowships for an additional period of study not to exceed one 12-month period,";

(30) in section 923(b)(2), by striking out the second and third sentences and inserting the following: "Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work, provided that the student has attained satisfactory progress prior to the dissertation stage, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient. The institution shall provide 2 years of support for each student following the years of Federal predissertation support under this part. Any student receiving an award for graduate study leading to a doctoral degree shall receive at least 1 year of supervised training in instruction during such student's doctoral program.";

(31) in section 923(b), by adding at the end the following new paragraph:

"(3) CONTINUATION OF AWARDS UNDER PRIOR LAW.—Notwithstanding any other provision of law, in the case of an individual who was awarded a multiyear fellowship under this part before the date of enactment of the Higher Education Amendments of 1992, awards to such individual for the remainder of such fellowship may, at the discretion of the institution of higher education attended by such individual, be subject to the requirements of this subsection as in effect prior to such date of enactment. The institution shall be required to exercise such discretion at the time that its application to the Secretary for a grant under this part, and the amount of any such grant, are being considerea by the Secretary.";

(32) in section 924, by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 923(b)(3) to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.";

(33) in section 931(a), by inserting after the first sentence the following new sentence: "These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution.";

(34) in the third sentence of section 932(a)(1), by striking "doctoral" and inserting "graduate";

(35) in section 932(c), by striking "doctoral" and inserting "graduate";

(36) in section 933(b), by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be—

"(i) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

"(ii) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

"(I) $9,000 for the academic year 1993–1994; and

"(II) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of

*Labor's Consumer Price Index for the previous calendar year.*

*"(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";*

*(37) in section 941, by striking "the part" and inserting "this part";*

*(38) in section 943(b), by striking "foreign languages or area studies" and inserting "foreign languages and area studies";*

*(39) in section 945, by amending subsection (c) to read as follows:*

*"(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this part in amounts that exceed the institutional payments made by the Secretary pursuant to section 946(a) may count such payments toward the amounts the institution is required to provide pursuant to section 944(b)(2).";*

*(40) in section 946, by amending subsection (a) to read as follows:*

*"(a) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—*

*"(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and*

*"(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—*

*"(i) $9,000 for the academic year 1993–1994; and*

*"(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.*

*"(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.";*

*(41) in the matter preceding paragraph (1) of section 951(a), by inserting "Pacific Islanders," after "Native Americans,";*

*(42) in section 1004(a), by striking "part" and inserting "subpart";*

*(43) in section 1011(d), by striking "part" and inserting "subpart";*

*(44) in part D of title X, by redesignating section 1181 as section 1081;*

*(45) in section 1081(d) (as so redesignated) by inserting a comma after "this title)" and after "such institutions";*

*(46) in section 1106(a), by striking "may receive a grant" and inserting "may receive such a grant";*

*(47) in section 1142(d)(2), by inserting "program" after "literacy corps";*

*(48) in the last sentence of section 1201(a), by striking "subpart 3 of part H," and inserting "subpart 2 of part H of title IV of this Act,";*

*(49) by amending section 1204 to read as follows:*

*"TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE*

*"SEC. 1204. (a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated states.*

*"(b) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV of this Act.";*

*(50) in section 1205, in the section heading, by inserting "**NATIONAL ADVISORY**" before "**COMMITTEE**";*

*(51) in section 1205(a), by inserting "National Advisory" before "Committee" the first place it appears;*

*(52) in paragraphs (1) and (6) of section 1205(c), by inserting "of title IV of this Act" after "part H";*

*(53) in section 1205(f), by striking "Accreditation and Institutional Eligibility" and inserting "Institutional Quality and Integrity";*

*(54) in section 1209(f)(1), by striking "the Act" and inserting "this Act";*

*(55) in title XII, by redesignating section 1211 (as added by section 6231 of the Omnibus Trade and Competitiveness Act of 1988) as section 1212; and*

*(56) in section 1212(e)(2) (as so redesignated), by inserting close quotation marks after "facilities" the first place it appears.*

*(k) AMENDMENTS TO THE 1992 AMENDMENTS.—The Higher Education Amendments of 1992 (Public Law 102–325; 106 Stat. 459) is amended—*

*(1) in section 401(d)(2)(A), by inserting "the first place it appears" before "the following:";*

*(2) in section 425(d)(1)—*

*(A) by inserting "the second sentence of" after "(1) in"; and*

*(B) by striking "in the second sentence";*

*(3) in section 425(d)(4)—*

*(A) by inserting "the second sentence of" after "(4) in"; and*

*(B) by striking "in the second sentence";*

*(4) in section 426(c), by striking "new subsections" and inserting "new subsection";*

*(5) in section 432(a)(3), by striking "427(a)(2)(C) and 428(b)(1)(M)" and inserting "427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1)";*

*(6) in section 446, by striking subsection (c);*

*(7) in section 465(a), by amending paragraph (1) to read as follows:*

*"(1) in subparagraph (A), by striking 'and such determination' and all that follows through 'such chapter 1';";*

*(8) in section 484, by inserting after subsection (h) the following new subsection:*

*"(i) EFFECTIVE DATE.—The amendments made by subsection (g) with respect to the addition of subsection (n) shall be effective on and after December 1, 1987.";*

*(9) in section 486(a)(3), by striking "section 1" and inserting "section 103";*

*(10) in section 1409(b)(1), by striking "the Asbestos Hazard Emergency Response Act" and inserting "section 202 of the Toxic Substances Control Act (15 U.S.C. 2642)";*

*(11) in section 1422(9), by striking "has placed" and inserting "have placed";*

*(12) in section 1442(c), by striking "Chairman" and inserting "Chairperson";*

*(13) in section 1541(g), by striking "educational" and inserting "education"; and*

*(14) in the subsection (a)(1) amended by section 1554(a), by striking "4" and inserting "6".*

*(l) AMENDMENT TO THE 1986 AMENDMENT.—Section 1507(a)(12) of the Higher Education Amendments of 1986 (20 U.S.C. 4414(a)(12)) is amended by striking the period and inserting a semicolon.*

*(m) STYLISTIC CONSISTENCY.—The Act is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section.*

*(n) ACCREDITATION THROUGH TRANSFER OF CREDIT.—(1) An institution of higher education which satisfied the requirements of section 1201(a)(5)(B) of the Act prior to the enactment of the Higher Education Amendments of 1992, shall be considered to meet the requirements of section 1201(a)(5) of the Act if—*

*(A) within 60 days after the date of enactment of the Higher Education Technical Amendments of 1993, such institution has applied for accreditation by a nationally recognized accrediting agency or association which the Secretary determines, pursuant to subpart 2 of part H of title IV of the Act, to be a reliable authority as to the quality of education or training offered;*

*(B) within 2 years of the date of enactment of the Higher Education Technical Amendments of 1993, such institution is accredited by such an accrediting agency or association or, if not so accredited, has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time; and*

*(C) such institution is legally authorized within a State to provide education beyond secondary education.*

*(2) The Secretary shall determine whether to recertify any institution that meets the requirements of paragraph (1) within 2 years after the date of enactment of this Act.*

*(3) Paragraph (1) of this subsection shall be effective on and after July 23, 1992.*

***SEC. 3. PACIFIC REGIONAL EDUCATIONAL LABORATORY.***

*Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a) is amended—*

*(1) in the matter preceding paragraph (1) of subsection (b)—*

*(A) by striking "Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii"; and*

*(B) by inserting "or provide direct services regarding" after "grants for"; and*

*(2) in subsection (c), by striking "Center for the Advancement of Pacific Education" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii,".*

***SEC. 4. DISTRIBUTION OF FUNDS TO POST-SECONDARY AND ADULT PROGRAMS.***

*Section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341a) is amended—*

*(1) in subsection (a)—*

*(A) in the first sentence—*

*(i) by inserting "(1)" before "Except"; and*

*(ii) by inserting "or consortia thereof" before "within"; and*

*(B) in the second sentence—*

*(i) by inserting "or consortium" before "shall"; and*

*(ii) by inserting "or consortium" before "in the preceding";*

*(C) by adding at the end the following new paragraph:*

*"(2) In order for a consortium of eligible institutions described in paragraph (1) to receive assistance pursuant to such paragraph such consortium shall operate joint projects that—*

*"(A) provide services to all postsecondary institutions participating in the consortium; and*

*"(B) are of sufficient size, scope and quality as to be effective.";*

*(2) in subsection (b)—*

*(A) in paragraph (1), by inserting "or consortia" after "institutions"; and*

*(B) in the matter preceding subparagraph (A) of paragraph (2), by inserting "or consortia" after "institutions"; and*

*(3) in subsection (c)—*

*(A) in paragraph (1), by inserting "or consortium" after "institution"; and*

*(B) in paragraph (2), by inserting "or consortia" after "institutions".*

***SEC. 5. EFFECTIVE DATES.***

*(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102-325), except that section 492 of the Act shall not apply to the amendments made by this Act.*

*(b) EXCEPTIONS.—*

*(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40).*

*(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62).*

*(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act: (c)(19), (c)(20), (c)(21), (c)(59).*

*(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act: (c)(31) and (c)(53).*

*(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act shall be effective on and after April 1, 1994.*

*(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29).*

*(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) shall be effective on and after October 1, 1994.*

*(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection (a)(3) and (m)(1)(B) of section 435 of this Act shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.*

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlemen from Michigan?

Mr. GOODLING. Mr. Speaker, reserving the right to object, and I will not object, but I would yield to the chairman for an explanation of his unanimous consent request.

Mr. FORD of Michigan. I thank the gentlemen for yielding to me and for his cooperation, under his leadership, of the members of his party in bringing this technical amendments bill quickly to the House and Senate and through a conference so that we can assure that people who are waiting for student loan assistance will not be harmed by oversights made in the reenactment of the Higher Education Act in 1992 and in the 1993 amendments.

These amendments would make technical and clarifying changes to the Higher Education Act. We do not change the substance of any of the provisions of the act away from that which was passed by the House and Senate. I again want to thank the gentleman from Pennsylvania [Mr. GOODLING], and all the members on both sides of the aisle on the committee, the gentleman from Wisconsin, Congressman PETRI, the ranking member on the Postsecondary Education Subcommittee, for helping us to expedite these changes.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, and I will not object, but I would like the gentleman from Michigan to explain his unanimous-consent request.

I support S. 1507, legislation making technical corrections to the Higher Education Act. Chairman FORD and I have stood by our agreement to bring a bill back to the House which is purely technical, making only grammatical corrections and clarifying original Congressional intent to the 1992 Higher Education Act Amendments.

During consideration of the 1992 Higher Education Act Amendments, I sought to ensure that quality programs providing short-term education and training would retain eligibility for the Federal Family Education Loan Program [FFELP]. This was achieved by amending section 481(e) to require that programs of less than 600 clock hours would have to demonstrate verifiable completion and job placement rates of at least 70 percent. Congressional intent was to preserve eligibility of all short-term programs until regulations detailing these new requirements were promulgated. While legislative language clarifying this policy is not included in S. 1507, Secretary Riley has assured me that the Department of Education will extend the eligibility of short-term programs until the necessary regulations are promulgated.

S. 1507 also clarifies congressional intent with regard to different loan limits for students based upon the year in which they were enrolled in school. Since enactment of the 1992 Higher Education Act Amendments, questions have arisen as to whether undergraduate students who are enrolled in programs requiring an associate's degree for admission are entitled to third or first year loan limits. This bill clarifies that such students are eligible to borrow as third year undergraduates for both Stafford and SLS loans if they have successfully completed 2 years of any postsecondary program and the prerequisites for admission to the new program include at least 2 years of prior postsecondary education. If the prerequisite is a baccalaureate degree, then the new program is considered a fifth year undergraduate program for guaranteed student loan purposes. S. 1507 allows students enrolled at institutions which require an associate or baccalaureate degree to remain eligible for the higher loan limits.

I would also like to point out two additional provisions which I know are of interest to many members. First of all, at the request of Congressman BART GORDON, this bill includes a provision clarifying the intent of Congress that the Secretary of Education is allowed to only conscript institutions of higher education to participate in the Federal Direct Student Loan Program in order to obtain a representative cross section of participating institutions. This provision corrects the perception that the Secretary could force colleges and universities into the program against their will for reasons other than obtaining a cross sample.

The other provision concerns the Department of Education's cohort default legislation. This bill makes major improvements to the Department's bill. For the first time, institutions will have access to the data Guaranty Agencies send to the U.S. Department of Education, commonly called tape dumps, which are used to determine their default rates. These institutions would thus be able to work out data discrepancies before the Department publishes its rates. In addition, this legislation also sets a precedent in ensuring that most institutions that wish to contest their default rates have a guaranteed right of access to an appropriate sample of the loan servicing and collection information from the guaranty agencies. If errors are found that resulted in an inaccurate calculation of their default rate, then these rates will be revised to reflect this miscalculation. It is our hope that this provision will help resolve many of the court cases that are currently ongoing between the Department of Education and various institutions regarding these important issues.

In my view, Mr. Speaker, this provision strikes an ideal balance of the rights of institutions to have access to this important data, while giving the Department full authority to implement the default rate provisions in the Higher Education Act.

In conclusion, I support passage of S. 1507 so that provisions in the 1992 Higher Education Act Amendments are clarified and corrected to ensure that Congressional intent is clear. I urge my colleagues to support this bill.

Mr. PETRI. Mr. Speaker, I rise today in support of S. 1507, the higher education technical amendments.

S. 1507 as passed by the other body, represents true agreement between the committees of jurisdiction in both bodies with respect to needed technical changes to this Nation's higher education law. It is a noncontroversial bill, making purely technical corrections to the Higher Education Act of 1965, which were necessitated by changes made during the 1992 reauthorization.

These changes fall into one of two categories. They are either corrections in punctuation, grammar, spelling, cross-references, and typographical errors; or they are clarifications of congressional intent. For instance, S. 1507 makes a clarification to changes in the

Byrd Scholarship program brought to the committee's attention by my colleague from Wisconsin, Mr. KLUG, in instances when appropriations are insufficient to fund these scholarships for four years.

It makes an important clarification with respect to different loan limits for students, based upon the year in which they were enrolled in school, and it clarifies that students enrolled in less than 600-clock-hour programs are eligible for students loans if the institutions they attend maintain a 70-percent graduation rate and a 70-percent placement rate, ensuring that quality short-term training programs will continue to exist.

The committee has been working for a year on these corrections, and the legislation before us today is the result of the input received from a bipartisan group including Members of Congress, both on and off the committee, the education community, and the Department of Education. This bill is strictly technical in nature and is noncontroversial, and I urge my colleagues to support its passage.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## NEW COLUMBIA ADMISSION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 316 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 51.

For what purpose does the gentleman from New York [Mr. SOLOMON] rise?

### POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, at this point I would make a point of order against the consideration of H.R. 51 on the grounds that it is in violation of House rule XIII, clause 7, as well as section 308(a) of the Budget Act, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The gentleman may state his point of order.

Mr. SOLOMON. Mr. Speaker, House Rule XIII, clause 7(a) requires that the committee report to accompany any bill and I quote—

> Shall contain an estimate made by such committee of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the 5 fiscal years following such fiscal year

And clause 7(b) of that rule says, and I quote,

> It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

Mr. Speaker, the report to accompany H.R. 51, House Report 103-371, at page 22, notes that a CBO cost estimate, and I quote, "was not received by the Committee from the Director of the Congressional Office prior to the filing of this report."

The report goes on to state that, "pursuant to clause 7 of rule XIII, the Committee notes that the provisions of H.R. 51 impacting on revenues and expenditures do not differ markedly from those of H.R. 4718 in the 102nd Congress."

And the report goes on to incorporate that 1992 cost estimate as the committee cost estimate at pages 22 through page 26.

However, Mr. Speaker, this does not satisfy the requirements of clause 7(a) of rule XIII since the CBO cost estimate does not contain the required cost of the bill for the fiscal year in which it has been reported—fiscal year 1994—and in each of the 5 fiscal years following such fiscal year . . . .

For the report to be in compliance with the requirements of clause 7(a) of rule XIII, there must be a clearly delineated breakdown of the estimated costs for each of the fiscal years 1994 through 1999.

Nowhere in this report is there such a breakdown.

Mr. Speaker, since the rule providing for the consideration of the bill does not waive points of order anywhere in this rule, in its consideration, this point of order is in order pursuant to clause 7(b) of rule XIII; and, Mr. Speaker, I also make a point of order that the report violates section 308(a), as I mentioned earlier, of the Budget Act, which requires certain cost estimates, including section 402 to be direct spending costs. The CBO report, at page 26, only contains the PAYGO estimates through fiscal year 1995. But this year we extended the requirements of PAYGO through fiscal year 2002.

I therefore urge that my point of order be sustained, Mr. Speaker.

□ 1710

The SPEAKER pro tempore. Does the gentleman from California wish to be heard on the point of order?

Mr. STARK. Mr. Speaker, I rise in opposition to the point of order.

A review of the full text of the CBO estimate on page 22 to 26 of House Report 103-371 clearly indicates that it covers the five years required by the rule, and much beyond.

For example, on page 22, the cost to the Federal Government of administering the federal enclave is $40 million annually; that is an indefinite period extending beyond the five years of the rule.

Similarly, Mr. Speaker, other estimates are recurring, as follows:

Congressional representation is $3 million a year, page 23.

Justice services, $45 million a year.

Finally, Mr. Speaker, if you look at the chart on page 26 of the report, you will note that the net cost to the government for every year is zero—costs are offset by savings.

Thus, the committee report complies fully with the rule.

Mr. SOLOMON. Mr. Speaker, the gentleman clearly has not disputed the fact that the cost estimates are not accurate; but nevertheless, I would stand by the ruling of the Chair.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair is prepared to rule.

Clause 7 of rule XIII requires that the report of the Committee on the District of Columbia on H.R. 51 contain the committee's estimate of the costs which would be incurred in carrying out the bill in the fiscal year in which it is reported and in each of the 5 ensuing fiscal years.

On page 22 of House Report 103-371, the Committee on the District of Columbia notes, pursuant to clause 7 of rule XIII, that the provisions of the bill affecting revenues and expenditures are similar to those in an earlier bill, and includes the full text of the Congressional Budget Office cost estimated, dated April 30, 1992, on that earlier form of the bill.

The CBO cost estimate estimates costs and savings as recurring annually and indefinitely.

For example, it estimates the costs of providing services, within and administering the National Capital Service Area as being at least $40 million annually.

It estimates the costs of additional congressional representation as being "$3 million a year", it estimates the cost for the Statehood Transition Commission at less then $ million, and it estimates the savings from the discontinuation of Federal support for local administration of justice and resulting court services as $45 million a year.

In addition, clause 7(d) of rule XIII expressly acknowledges the fundamental accuracy of the CBO cost estimates.

The Chair also notes in response to the point of order under section 308 of the Budget Act that the cost of the new Senators salary as stated in the CBO report would result in a direct Federal spending of $0.3 million annually. Thus the CBO report identifiers new spending authority provided in the bill.

The Chair holds that the committee cost estimate on the bill is not deficient for its being based on the CBO cost estimate where the latter estimate has examined the same subject on an indefinite basis.

The Chair overrules the point of order.

Mr. SOLOMON. Mr. Speaker, I respectfully disagree with the findings of the Chair, but I would not object.

The SPEAKER pro tempore. The Chair overrules the point of order.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentlemen from California [Mr. STARK] will be recognized for 1 hour and 30 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 1 hour and 30 minutes.

Mr. Chair recognizes the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask unanimous consent that at the conclusion of my summary remarks, the delegate from the District of Columbia [Ms. NORTON] may control the time on the majority side.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, H.R. 51 provides for the admission of New Columbia as the 51st State of the Union.

This is a historic moment for the House of Representatives and for the country, and I trust that we will continue both as members of the committee and staff on both sides of the District of Columbia to debate and work with this issue in the utmost seriousness and dedication to the precepts of the Constitution to bring full citizenship to the 600,000 residents of the District of Columbia.

Passage of the bill before us today will rectify the embarrassment to democracy we perpetuate by denying full representation to 600,000 residents of the District. Passage of this bill is a matter of simple justice.

Title I of the bill provides procedures for admission, describes the territory of New Columbia, and contains various provisions relating to the laws of the new State. Title II of the bill delineates the responsibilities and interests of the Federal Government and its relationship with the new State concerning such matters as payments in lieu of tax and scenic easements. The second title also provides a mechanism for expedited repeal of the 23d amendment. Title III includes operative definitions and describes the composition and responsibilities of the Statehood Transition Commission.

Mr. Chairman, Passage of the bill before us today is a matter of simple justice. Bills to admit Washington, DC. as the 51st State have been introduced in Congress since 1965. Now, 28 years later, we have arrived at a defining moment in the struggle for D.C. statehood with this most historic debate and vote on the floor of the House of Representatives.

Throughout this debate, statehood opponents will complain that the bill is fatally flawed. I assure you, the Committee on the District of Columbia has gone to great lengths to craft a bill which is constitutionally sound and addresses legitimate, practical, and legal considerations. This year alone, a dozen amendments were adopted by the committee to this bill. Passage of this bill is a matter of simple justice.

Mr. Chairman, not many days ago in this Chamber we debated whether or not democracy was to be denied to citizens of Mexico, with more fervor and more concern than we have shown to 600,000 American citizens who are denied full participatory democracy.

The passage of this bill is a matter of simple justice.

Mr. Chairman, you may hear this bill trivialized by zoning requirements and map boundaries, trivialized by issues of the complications of statehood. But I ask each Member, do these trivial objections overcome or justify the continued denial of democracy to 600,000 American citizens? Would you deny democracy to the citizens of Alaska, Wyoming, or Vermont, each of which those States have fewer residents than the District of Columbia?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The gentleman will suspend for just a moment.

The Sergeant at Arms will instruct those Members in the cloakroom to control their noise, that we might be able to continue. That noise is making its way on to the floor of the House of Representatives.

Mr. STARK. Mr. Chairman, with each objection, I hope that you can ask yourselves this question. Does that objection justify saying to American citizens here in the Nation's Capital that you must bear the burdens of Americans' citizenship, send your sons and daughters to fight and die for your country, pay Federal taxes, comply with other Federal laws; but does it justify them saying no, you do not deserve the right to choose your leaders in the House and in the Senate, you are not entitled to full democracy?

I think very clearly the answer to each of those objections is no, it does not. It is indeed again a matter of simple justice.

Mr. Chairman, as we prepare to celebrate Thanksgiving in a few days, let us right this terrible wrong and bestow a feast of democracy and self-determination on the residents of this great city. Approve DC statehood. Stand up for simple justice.

□ 1720

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the bill before us today, H.R. 51. The proponents of this bill will present a very emotional plea on behalf of the citizens of the District of Columbia. My colleague from the District will argue that statehood is a matter of civil rights. But as a number of legal scholars have pointed out, voting representation can be achieved through means other than statehood. So this is not a civil rights issue.

Statehood supporters will argue that this is a test of whether we believe in democracy. I submit that it is a test of whether we believe the right to participate in the democratic process belongs only to a few or to everyone. Statehood proponents intend to deny 250 million Americans, who are also citizens of the Nation's capital, the right to participate in the democratic process of amending their constitution. All Americans should have the right to choose whether they want to give 95 percent of their capital away.

There are three constitutional impediments to the admission of New Columbia through simple legislation which will be discussed during the debate. For 30 years, the Department of Justice, under Democratic and Republican Administrations alike, has consistently maintained that the status of the District can be changed only through a constitutional amendment. I want to note that this position has not changed even with the change in administrations.

We will also discuss New Columbia's inability to meet the traditional statehood requirement of economic viability. And we will discuss the substantial problems of the bill itself.

Other than to defend some of the special privileges placed in the bill to create a special and unprecedented relationship between the Federal Government and a State, statehood proponents will not talk much about the bill itself. Let me warn Members. Even if you favor statehood, this bill is full of serious flaws. It does not admit a coequal State into the Union. Parts of this bill are so alarming, you may tend not to believe them. But what we will be describing about the boundaries, about the failure to provide for the needs of the Nation's capital, about the failure to present the State constitution to the voters, and about the dangerous precedents this legislation sets are indeed true.

Here we are in the last hours of this session of Congress. But do not believe for a moment that a vote on H.R. 51 will be lost in the avalanche of NAFTA, the various crime bills, unemployment compensation, and so forth. This is a vote that will come back to haunt you if you do not understand precisely what you are supporting. The

picture painted by statehood advocates that the Federal Government will be cleanly separated from the city in which it resides is distorted. Do not be misled by the slogans and oversimplifications. Please stay tuned for the facts.

Some of the Federal building in New Columbia by H.R. 51: General Services Administration; Federal Deposit Insurance Corporation; Federal Home Loan Bank Board; New Executive Office Building; U.S. Court of Claims; Department of the Treasury Annex; Department of Veterans Affairs; FBI; U.S. Tax Court; Department of Labor [part]; Government Printing Office [GPO]; Federal Energy Regulatory Commission [FERC]; Union Station; Dirksen Senate Office Building; Hart Senate Office Building; Library of Congress Annex; Capitol Power Plant; O'Neill House Office Building; Department of Housing and Urban Development; and Department of Transportation.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would note that the distinguished gentlewoman from the District of Columbia [Ms. NORTON] now controls the time of the gentleman from California [Mr. STARK].

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the residents of the District of Columbia seek passage of H.R. 51 and admission to the Union as the State of New Columbia, the only full remedy for their untenable status. Embarrassed to come to the well to argue against democracy and self-government, the opponents will crawl into a tent and on the outside scrawl in graffiti letters the words "U.S. Constitution." Shame on you. They will raise every other argument as well. They will argue that the District is so small that it should not have two Senators, even though the District is larger than three States that already have their two, and the District is the only jurisdiction that pays Federal taxes but lacks representation of any kind in the Senate. The framers, of course, intended the proportionate representation in the House to be balanced by equal representation in the Senate regardless of size. Opponents will argue that the Congress cannot change the size of the District even though it has done so twice, once to preserve slavery for the former Virginia portion of the District. Should we not then, Mr. Chairman, reduce the size once again, this time for freedom, not for slavery's sake? Should we not reduce the size so that the neighborhoods of the eight wards which have no relevance to the Federal presence can be granted equal representation and full self-government?

I especially hope that my colleagues will not succumb to the counterfeit constitutional arguments they will hear. These are unconstitutional arguments, my colleagues. Some would require the District to take a route to statehood using a constitutional amendment, although no other State has ever entered the Union in this way. Most States had such trouble getting into the Union that indeed they could not have entered at all if they had to meet the constitutional requirements of two-thirds of the House and the Senate and three-quarters of the States.

Opponents want to make sure that the odds are stacked against us as they were not stacked against their own States when they came into the Union. Anti-statehood advocates ground their case not on the weight of opinions of constitutional scholars, almost all of whom argue that statehood is constitutional, but on old Justice Department opinions. The opinions of the Robert Kennedy Justice Department and some views from the Carter administration indeed discussed statehood but were, in fact, directed at other issues. Statehood had not been pursued and had not even been requested by the District at that time. The only complete Justice Department opinions were written during the Reagan and Bush years under Presidents who were outspoken opponents of statehood for the District of Columbia. I do regret that we have no current Justice Department opinion and that the review I have requested is still at Justice.

However, we could not wait. We had to go forward when the opportunity was available in any case. It is clear that court precedent allowing the District size to be reduced once before and the overwhelming weight of constitutional scholarship, that the 23d amendment is no bar, make the constitutional arguments mere pretexts for political concerns. Constitutional issues are raised every day in this Chamber, Mr. Chairman. They do not keep Members from doing what is right. Rather, Members argue that this is not the branch of Government that decides constitutional issues. They are right. This is the branch of Government that decides whether States shall be admitted to the Union.

Mr. Chairman, my colleagues may say what they will about admission of the State of New Columbia. But I ask them not to hide behind the framers' document or obvious arguments designed to cover partisan opposition. Rather I ask my colleagues to join the impressive number who have already committed to vote "yes" on the admission of New Columbia to the Union.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. RANGEL]

Mr. RANGEL. Mr. Chairman and my colleagues, we will hear a lot of constitutional laws discussed here today. I hope one day we will have the honesty to shatter the hypocrisy that is involved as we discuss whether we are going to treat all Americans as equal Americans.

□ 1730

We would find it very difficult to go into some Communist nation or some nation that did not allow all of its citizens to enjoy democracy as we know it. And yet right here in the United States, we have citizens, many of them whose forefathers came here before anyone except the Indians. We have had generations of people that have fought and died for this country. There have been more deaths per capita in Vietnam than 47 States, and more deaths in the Persian Gulf. They have paid their taxes. They have paid their dues in this society. But, for some reason, we are taking about the Constitution.

I think it goes deeper than this. I think there are reasons that other Americans might feel uncomfortable. But I will tell you this: When our country is being challenged, no one feels uncomfortable with the background of that American that is in that foxhole with them.

Mr. Chairman, I ask us to get above our biases, our prejudice, and do what is right for America, so that when we go into Latin America, when we go into Asia, when we go into Africa, we can allow them to believe that this democracy that we love, this democracy that we cherish, that we are not willing to deny people who love this country, who have fought for this country, who died for this country, to play according to a different set of rules.

I think for those who talk about a day haunting us, it is a day that stains our beloved Constitution and everything that we are willing to fight and die for. If you deny it to one, you are really denying it to yourself and your dear country.

Mr. BLILEY. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. BALLENGER], a member of the committee.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 51, a bill to grant statehood to the District of Columbia. One of the traditional statehood requirements which must be met is that the proposed new State has sufficient population and resources to support State government and to provide its share of the cost of the Federal Government. It is highly doubtful whether New Columbia can meet this requirement.

In 1970, the District ranked ahead of 10 States in terms of population. But since then, the District has declined by 168,000 people or more than 22 percent of its population. The District now ranks ahead of just three States and

will likely be passed by at least one of those by the end of this year. If the trend of the past three decades continues, the District's population will be less than 500,000 by the year 2010, not merely making it the smallest State, but also shrinking it below the size of a congressional district and threatening its economic life.

Throughout the summer, the local press was filled with concern and doubt about the city's finances. In June, the Washington Post ran an article entitled, "Local Executives See District in Peril." In that article, the District was described as "sitting atop a financial sinkhole, its future threatened by steadily dwindling tax revenue, declining public service, and a growing exodus of jobs and taxpayers to the suburbs." The economic future is so bleak that the President of the Greater Washington Board of Trade was quoted as saying. "We're not going to be talking about statehood or no statehood. We're going to be setting back the whole notion of home rule."

In September, the Post ran an editorial which stated, "independence—in the sense of having resources large enough to stand alone without special federal support—isn't realistic."

The Washington Post, in this instance, is in a particularly noteworthy position to understand the District's economic situation. As you can see by this chart of the top 10 private employers in the District, the Post ranks first with 3,687 employees. McDonald's ranks within the top 10 employers.

The District presently survives with this economic base because of the presence of the Federal Government. The District government receives 20 percent of its budget from the Federal payment and another 16 percent from other Federal grants and reimbursements. It is difficult to imagine that the state can survive on an economic base dependent upon the local newspaper, the regional power company, grocery stores, and a chain of fast food restaurants.

Mr. Chairman, the trail to statehood ends right here until economic independence is secure.

Mr. Chairman, I include the chart referred to for the RECORD.

*Top Ten Private Employers in the District, January 1992*

Business:

| | *Employees* |
|---|---|
| The Washington Post | 3,687 |
| C&P Telephone Company | 3,196 |
| Potomac Electric Power Co. | 3,124 |
| General Maintenance Service Co. | 2,250 |
| J.W. Marriott Corporation | 1,920 |
| Riggs National Bank | 1,803 |
| Federal National Mortgage Assoc. | 1,726 |
| Hyatt Hotels | 1,589 |
| Safeway Stores, Inc. | 1,576 |
| McDonald's Restaurants (Exact figure unknown) | |

Ms. NORTON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to rebut the remarks of the gentleman who preceded me, who implied that the District of Columbia, because it was dependent on the Federal Government, could not survive.

Eleven States raise fewer local government revenues than the District of Columbia. I would like to call that roll, if I might, Mr. Chairman: Delaware, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming.

If these States can support themselves, I submit, Mr. Chairman, then so can the District of Columbia when it becomes the State of New Columbia.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. ROHRABACHER], a member of the committee.

Mr. ROHRABACHER. Mr. Chairman, I thank the distinguished ranking Republican member for yielding time to me.

Mr. Chairman, I rise in opposition to this bill. The gentleman from Virginia has ably explained some of the many serious problems in this bill, and he is absolutely correct when he says that anyone who votes for this bill is voting not just for the principle of statehood for Washington, DC, but for a specific bill with several horrible provisions. I will be spending some time later in this debate to discuss two of these in particular, which together would likely cost the Federal Government billions of dollars. But for now, I would like to explain for my colleagues why it is not just the bill that is flawed, but the concept of D.C. statehood, as well.

Advocates of statehood for the city of Washington, DC, do have a valid point when they complain about their lack of voting representation in the House and Senate. In fact, I agree that citizens of our Nation's Capital should have the same rights as their neighbors across Eastern Avenue, or the citizens of any other city, to be represented by voting members of the House and Senate.

If local statehood advocates would only agree that residents of Washington should have the same rights to legislative representation as residents of other cities, this problem could be solved in short order, with a broad bipartisan majority of both Houses of Congress.

Unfortunately, these statehood advocates won't accept equal rights. They insist instead on having superior rights. They insist on having rights that residents of no other city in this country would dream of asking for. They want to be able to elect two U.S. Senators, and a State government, all by themselves.

Statehood advocates seem to think that this city is somehow especially deserving in that 3 years ago, it was larger in population than 3 States, and that even in the next census 7 years from now it will still be larger than 1 State—Wyoming.

I have to tell you, there is nothing unique in this. Los Angeles County, which until this year constituted half of my district, is larger than 42 States. Orange County, where my district is entirely located now, is larger than 18 States. Even just the city of Los Angeles has more people by itself than half the States in this country. These numbers will only grow by the next census.

Each of these jurisdictions pays far more Federal taxes than Washington, DC, has sent more of its sons to Vietnam and the Persian Gulf, and is far larger in area, as well. If we are going to start handing out two U.S. Senators to cities and counties that are larger than three States, Los Angeles and Orange Counties deserve to be way ahead of Washington, DC, in line.

Yet it appears that statehood advocates are so attached to the overrepresentation they want, that they would rather keep the status quo than accept fair and equal representation.

The fair and equal representation of cities being parts of States, rather than entire States themselves, is, of course, taken for granted in the rest of the country. However, it is also how we have dealt with earlier, similar complaints from residents of the Federal district. The District of Columbia was formed from land belonging to two States, Maryland and Virginia. When I am working here in Congress, I reside in the part of Virginia that was ceded to the Federal Government. Does that mean my neighbors in Arlington have no voting representation in Congress? No, their problem was taken care of many years ago, when their part of the District of Columbia was returned to Virginia. There's no reason why the same solution won't work for those who live in the Maryland part of the District of Columbia.

Returning the city of Washington to Maryland would hardly be overwhelming to Maryland. The city's population would be about one-ninth of the total State. Washington would become the fifth largest jurisdiction in Maryland, after Montgomery County, Prince Georges County, Baltimore County, and Baltimore City.

Under this scenario, residents of Washington would have the same rights as other citizens of States to vote for their State's U.S. Senators (or be elected to the Senate) and to vote for State legislators.

I believe that turning Washington, DC, into Washington, MD, would receive substantial support from Republican Members of Congress, even though it would result in the election of an additional liberal Democrat to the House, and even though it would make it more difficult to elect a Republican Senator from Maryland.

While many assume that Maryland would reject this return of their territory on fiscal grounds, I have no doubt

that retrocession could be accomplished on financial terms that would be attractive to Maryland.

For example, instead of bearing the brunt of a new commuter tax that a separate "State of New Columbia" would impose, Maryland would be able to reap the benefits of taxing Virginia commuters. Certainly, there would be economic benefits from having the Nation's Capital within the state's borders, economic benefits the states competed strongly for 200 years ago. Maryland's Governor Schaefer has with good reason put out the welcome mat, stating that if Washington, DC does not become a state on its own, it would be welcome to rejoin Maryland.

For those who believe that there is simply no way that retrocession could be structured to avoid being a financial drain on Maryland, even after gaining economies of scale for the city's state functions, and restricting the city's other expenditures, I would simply ask: "How then can you think that the State of New Columbia can stand on its own with no one to drain from?"

The answer, of course, is "They can't". The proposed State of New Columbia is nowhere close to being financially viable as a state on an equal footing with the other states of the Union. Even now, as a city, its government is on the verge of bankruptcy.

As a state, the situation would be worse. Under any fair admission bill, the $650 million annual federal payment would be gone, since the justification of aiding the National Capital would be gone. New Columbia would merely be one of the States bordering the capital, not the capital itself.

A new commuter tax could not compensate for that loss. If it could, the city would have accepted my offer to trade the Federal payment for commuter tax authority. In fact, the reality with statehood would be worse. A city commuter tax, which is what I offered in trade, would apply to all the Federal employees who commute to Washington. A State commuter tax would not apply to anyone who works in the Capitol Building, the White House, or anywhere else in the shrunken Federal district left by the statehood bill, so it would bring in even less money.

On top of that loss, the new State would have to spend an extra $50 million per year for a new criminal prosecutor's office, not to mention the extra legislators, and new municipal governments. Also consider how the new State would keep its tax base. Even now, there is a steady loss of businesses, associations and government offices to nearby States. That outflow has limits because the prestige of being in the Nation's Capital will always keep a certain number here. But what happens when Crystal City, VA, is competing, not with Washington, DC but with Farragut Square, New Columbia, for example? The prestige will be gone, and so will the businesses and associations. It would not take long for downtown New Columbia to become a ghost town. Even with casino gambling, the State could not make it to its first birthday without having to declare bankruptcy.

To sum up, D.C. statehood does not meet the requirements of either simple justice or fiscal solvency. Retrocession, on the other hand, puts the residents of this city on an equal footing with residents of other cities, and provides an opportunity for a change that would benefit both the District and Maryland.

I ask my colleagues to join with me to overwhelmingly reject the fantasy of statehood for one city, so that we can move on to a solution that makes sense for both the residents of this city and the rest of the country.

□ 1740

Ms. NORTON. Mr. Chairman, I yield myself 30 seconds.

I want to remind the gentleman from California that every city and every jurisdiction in the United States that pays Federal taxes already has 2 Senators in the Senate of the United States.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Chairman, I rise in support of H.R. 51.

Ms. NORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise in full support of this legislation. I pay tribute to the gentlewoman from the District of Columbia on her efforts to bring statehood to the District of Columbia.

I have cosponsored this bill because I believe statehood is the remedy for the incomplete democracy that exists in this city * * * in fact the phrase is an oxymoron.

The District of Columbia is a city that cannot act like a city. City officials are denied final word on their budgets, they are denied the ability to appoint their own prosecutors and judges and the ability to develop strategic taxing plans with local jurisdictions.

Having served in local government for 10 years I can tell you that these powers are the bare minimum for effective local government.

There is also the issue of taxation without representation.

Eighty-seven percent of the District of Columbia's budget comes from locally raised taxes. Yet the Congress and the President control 100 percent of the District's budget and have the right to repeal any of its laws and statutes.

Moreover, District of Columbia residents pay the third highest income tax rate in the country but do not have full representation in Congress.

Mr. Chairman, our forefathers' dedication to the idea of no taxation without representation was not a passing fashion. This remains a central tenet of our society and cannot be ignored.

The residents of the District live under an anachronistic colonial rule which must end. We should uphold the democratic prerogatives of self-government available to all Americans and free D.C. residents from the whims of Congress.

I urge Members of this body to ensure that the fundamental concept of self-government is not lost. Let's pass the New Columbia Admission Act.

I also submit for the RECORD Assembly Joint Resolution No. 3 from the California legislature in favor of statehood.

CALIFORNIA LEGISLATURE,
CHIEF CLERK OF THE ASSEMBLY,
*Sacramento, CA, November 15, 1993.*

Hon. ANNA ESHOO,
*Member of Congress,*
*Washington, DC.*

DEAR CONGRESSWOMAN ESHOO: I have been directed to invite your attention to Assembly Joint Resolution No. 3, relative to extending statehood to Washington, DC.

Accordingly, a copy of this resolution is enclosed for your information.

Very truly yours,

E. DOTSON WILSON,
*Chief Clerk.*

Enclosure.

ASSEMBLY JOINT RESOLUTION NO. 3—
RESOLUTION CHAPTER 87

Assembly Joint Resolution No. 3—Relative to extending statehood to Washington, DC.

(Filed with Secretary of State September 14, 1993.)

LEGISLATIVE COUNSEL'S DIGEST

AJR 3, McDonald. United States: statehood: Washington, D.C.

This measure would memorialize the President and the Congress of the United States to extend statehood to Washington, D.C.

Whereas, The American Revolution and War for Independence was ultimately declared citing the principle "taxation without representation is tyranny," and there are nearly 650,000 taxpaying American citizens in the District of Columbia who have no federal voting representation in Congress; and

Whereas, Of the 117 countries in the world with elected national legislatures, the United States stands alone in depriving the residents of its capital a voice and a vote in our national legislative body; and

Whereas, District of Columbia residents pay more federal income tax per capita than the residents of 48 states, and more in local taxes than the residents of any state in the country; and

Whereas, The District of Columbia's per capita income is $32,000, exceeding the national average by 42 percent and is well positioned for growth as a leader in a number of service industries, for example, law, business services, communications, and tourism; and

Whereas, District of Columbia residents serve disproportionately in the military; have served in all wars since the War for Independence and during the Vietnam War, has more casualties than 10 states and more casualties per capita than 47 states; and

Whereas, The District of Columbia sent more soldiers to the Persian Gulf than 20 states (more per capita than all but four states), and yet had no voting representation on the floor of the House of Representatives or Senate when Congress approved military involvement; and

Whereas, There is no constitutional prohibition against creating the State of New Columbia out of nonfederal parts of the District of Columbia, and the District of Columbia meets all statehood requirements traditionally imposed by Congress; and

Whereas, The District of Columbia has 639,000 residents, nearly as many or more residents than six states: Wyoming (465,000), Alaska (552,000), Vermont (565,000), North Dakota (641,000), Delaware (669,000), and South Dakota (699,000) with each state possessing two Senators; and

Whereas, Historically, statehood has been granted when three criteria were met: (1) the people, through some democratic process, express their desire to become a state; (2) the people accept the republican form of government required by the United States Constitution and practiced in the United States; and (3) there are sufficient people and economic resources to support a state; and

Whereas, District of Columbia residents have democratically expressed their desire to become a state through passage of a statehood referendum (November 1980); approval of a Constitution by district delegates (May 1982); transmittal of the Constitution and a petition for statehood (September 1983) to Congress; and in the tradition of Tennessee in 1796, election of their own statehood delegation to appeal to Congress to accept their petition for admission to the Union as the 51st state; and

Whereas, Statehood will provide District of Columbia residents with federal voting representation, as well as local legislative, budgetary, and judicial autonomy; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress to extend statehood to Washington, D.C.; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

Ms. NORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise in support of H.R. 51, providing for the admission of New Columbia as the fifty-first State in the Union.

Statehood for the residents of the present District of Columbia is a matter of fundamental civil rights. For too long, those who live in our capital city have paid Federal taxes and fought and died in wars without the basic right of full representation in Congress. With a greater population than some States and with a large and diverse economy, the present District of Columbia is still treated like a colony, with the most routine actions of the local government subjected to a Congressional override.

Mr. Chairman, it is shameful that the citizens of the city which is a symbol of democracy throughout the world do not have the basic right of full representation in the national legislature. Our country was founded on the principle of no taxation without representation, and yet the residents of the District of Columbia have no final voice in the Federal laws that they must live by.

This bill would preserve the intent of the Founding Fathers that territory be set aside as the seat of the Federal Government. Under the legislation, the Mall and Monument areas and most Federal buildings will continue to be administered by Congress. The city's residential neighborhoods, however, where 600,000 people live, will finally have the same kind of local autonomy and Congressional representation that every other American enjoys.

The Constitution specifies that the Federal seal of Government is not to exceed 10 square miles. The Constitution does not prohibit Congress from reducing the size of the Federal capital, and in fact Congress has already done so. In 1846, Congress returned Alexandria to the State of Virginia so that Alexandrians could continue the practice of slavery. If territory could be retroceded in order to keep people enslaved, how much more appropriate is it to admit New Columbia as a State in order to give its citizens all the civil rights of a democratic country.

The residents of the District of Columbia were originally denied representation in Congress because of the assumption that people would only live here temporarily while the Congress was in session. At the end of the eighteenth century, few could probably imagine how this city would grow and diversify. No longer is the Federal Government the only employer in this city. The major part of the economy is made up of businesses, large and small, that are unrelated to the Federal Government. It is incongruous that all of the residents of the District of Columbia, most of whom do not work for the Government, should be barred from Congressional representation while Congressional and Federal employees who live in the Maryland and Virginia suburbs are able to vote for Senators and Members of Congress.

Opponents of this measure dwell on local problems such as crime and budgetary difficulties. These arguments are completely beside the point. Most large cities in this country, unfortunately, have problems with violent crime. One of our largest cities, New York, almost went bankrupt and had to be bailed out by the Federal Government. None of these communities lost their representation in Congress because of these local problems. It is up to the citizens of this city to solve their own problems, and they should be given the same freedom to do so that the residents of every other American city have.

Mr. Chairman, the proposed admission of a new State has frequently caused controversy. Objections were raised against the admission of my own State of Texas because at the time it was a separate republic. The admission of California was controversial because its territory was not contiguous with any existing State. In retrospect, these objections certainly sound frivolous at best. Similarly, it is to be hoped that future generations will find it incredible that the citizens of the greatest democracy on earth were not represented in that country's capitol. I urge my colleagues to join me in passing this vital civil rights measure.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise to strongly support this proposal—for the obvious and important reasons.

That the District of Columbia pays per capita higher taxes than all but two States in this country. And yet they have no voice in writing the tax laws they live by.

The important and serious reasons that these citizens are asked to lay down their lives for their country like all the other citizens and yet they cannot vote.

A less important but certainly amazing and disturbing reason. The United States of America, the oldest democracy in the world, is the only democracy in the world that does not allow the citizens of their capital to vote.

But my real reason for supporting this proposal is the issue of fairness. The root of our democracy. Is it fair to let a woman of the caliber of Delegate NORTON to work so hard for her constituency and not at the end of the day, when the tally is being taken, not to have a vote as the decisions are being made?

Is it fair that each year when the D.C. appropriations comes up, it is held up and held up, for reason after reason. It is used as a vehicle to argue other issues and questions. Is this fair to try to micromanage an area that really comes up to importance of attention only after other things are addressed. How difficult and unfair to the people of the District and their Representative.

These are all good reasons, but ultimately what they boil down to is fairness, the simple fairness that is at the root of our democracy. I do not believe it is fair for the U.S. Congress to micromanage the District's affairs, or to exercise control over the District's revenues.

Mr. Speaker, this is a matter of fairness in another way. The citizens of the District and their elected officials have shown that they want statehood, that they are prepared to make decisions about their destiny, and are ready to move forward with this effort. It is not fair that we should deny the basic guarantee of a democracy—the right to be represented—to people who have been insisting on it and fighting for it for years.

One of the first lessons all of us learned about democracy was the concept of one man, one vote. But for the District today, the rule is many men and women, and no vote—no vote for House, no vote for Senate.

Mr. Speaker, I believe the time has come to end this unfair treatment of the District of Columbia, and I urge my colleagues to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. SAXTON], a member of the committee.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 51. I would like to say to the Delegate from D.C. that like her, I want every American to have the opportunity to participate in democracy.

Like her, I also stood in this Hall and raised my hand last January and swore to defend the Constitution and to protect the Constitution of the United States.

As a member of the Committee on the District of Columbia and being responsible to a large degree for my vote to make sure that in my view it is constitutional, I would just like to inform her and the other Members here that my opposition to H.R. 51 is not to try to keep someone from voting. On the contrary, I have spent a large part of my life defending democracy and promoting democracy, not only in this country but around the world.

But when I read the words in the Constitution, the document that she and I swore to defend, and the gentleman from Illinois [Mr. HYDE] is much more eloquent on this issue than I, and he will have more to say about it later, but in article I, section 8, the Constitution says very clearly, for all Americans to understand, it says, if I can just quote a few sentences:

"The Congress shall have the power to lay and collect taxes, to borrow money, to establish rules of naturalization, to coin money," and 18 other things here, powers, in all, "to constitute tribunals, the Supreme Court, to declare war, to support armies, the Navy, the Militia."

And when we get to clause number 17, it says very clearly, "To exercise exclusive Legislation in all Cases whatsoever, over the District as may be by Cession of particular States, and accepted by the Congress to be the Seat of Government of the United States of America."

□ 1750

That is very clear to me. That is our U.S. Capitol, and the Constitution, not a statute, gives us the control over the District.

So I agree with the gentlewoman, and I will work with the gentlewoman to find a way to give the citizens of the District of Columbia the right to vote, and in my view, that way is to amend the Constitution, not just have a statute which, I believe, flies in the face of the constitutionality as expressed by the words I just read.

It seems very clear to me that this is an issue that goes beyond what we are constitutionally capable of dealing with here today in H.R. 51.

I would just like to make one other point. That is that there have been a number of other issues that have been and will be addressed by Members of the House here this afternoon, tonight, and tomorrow. One of those issues has to do with something that was brought up by the gentlewoman from the District of Columbia [Ms. NORTON] during debate on the rule. That has to do with the per capita burden of citizens of the District of Columbia.

It is true that it is a relatively heavy burden, third behind only the first two States, Connecticut and New Jersey, which is my home State, of course, where we can see here in column one that Connecticut, the per capita tax raised is about $6,600, almost $6,700. In New Jersey, it is about $6,200. In the District of Columbia it is about $5,700.

When one works all this out to see what it is that the three top States get back in terms of Federal support, we can see also that there is a disparity; that the State of Connecticut gets back 67 cents on every dollar that is sent to Washington.

In the case of New Jersey, we get back 58 cents for every dollar. In the District of Columbia, the number is, for every dollar that the District of Columbia residents send to the Federal capital, they get back $4.92.

I know the gentlewoman is rising to try to explain that is because so many people get paid in Washington, DC. For the purposes of this calculation, not only did we use the total amount of wages paid in Washington, DC, but the total amount of taxes collected on those wages. So if the gentlewoman wants to exclude those two items and divide one by the other, it still comes out to the same number, $4.92.

The chart referred to is as follows:

FEDERAL TAX BURDEN ON HIGHEST PER CAPITA STATES

[Taxes paid and expenditures in millions]

| State | Federal per capita tax burden | Total taxes paid | 1990 Federal expenditures | Amount received in Federal expenditures for $1 paid in taxes |
|---|---|---|---|---|
| Connecticut | $6,678 | $22,070 | $14,739 | $0.67 |
| New Jersey | 6,239 | 48,676 | 28,322 | .58 |
| District of Columbia | 5,770 | 3,530 | 17,353 | 4.92 |
| Massachusetts | 5,577 | 33,024 | 29,778 | .92 |
| New York | 5,178 | 93,103 | 70,493 | .76 |
| Maryland | 5,046 | 23,809 | 27,118 | 1.14 |
| New Hampshire | 5,014 | 5,648 | 3,559 | .63 |
| Delaware | 4,953 | 3,348 | 2,149 | .64 |
| Alaska | 4,891 | 2,724 | 3,227 | 1.18 |
| Illinois | 4,738 | 55,198 | 36,696 | .66 |

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman is a member of the Committee on the District of Columbia, and he says he would like to work with me in order to assure that the District of Columbia has its right.

Mr. Chairman, I would ask the gentleman, would the gentleman be willing to work for budget autonomy to the District of Columbia? That is a measure short of statehood.

Mr. SAXTON. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, the gentleman will be more than happy to work with the gentlewoman to pursue whatever policies may be in the benefit of the District of Columbia and the rest of the citizens of the state that fall within the bounds and the realm of the Constitution which I referred to.

Ms. NORTON. That certainly does, because it is under our home-rule authority.

I would ask the gentleman, would he be willing to vote to eliminate the 30-day layover and 60-day layover period for bills passed exclusively in the District of Columbia?

Mr. SAXTON. Mr. Chairman, if the gentlewoman will continue to yield, the answer is the same. The gentleman will be pleased to cooperate with the gentlewoman on any issues and discuss any issues and pursue any issues that fall within the realm of the Constitution.

I again repeat that H.R. 51, in this gentleman's view, is not one of those issues.

Ms. NORTON. The gentleman would be willing to pursue issues, but not vote for issues, even to increase home rule for the District of Columbia.

Reclaiming my time, Mr. Chairman, I yield 4 minutes and 30 seconds to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman for her generosity in yielding time to me.

In 1971, Mr. Chairman, I had the very high honor and distinct privilege of being sworn into the 92d Congress. Shortly thereafter, I was appointed to the Committee on the District of Columbia. July 6th of that year I introduced a bill, H.R. 9599, to bring statehood to the District of Columbia, so I have waited patiently for 23 years for this moment to come. This is indeed a high honor and an opportunity for us to debate and discuss a very significant issue.

Mr. Chairman, in the remainder of the time I would like to first say what I think this debate is not about, Mr. Chairman.

Clearly it cannot be about taxation without representation. This country fought a war over that issue. We would be clearly hypocritical and contradictory if that was what this debate were about.

Clearly this debate cannot be about enfranchising the residents of the District of Columbia. We have advocated free elections in Central America, South America, Southeast Asia, Southwest Asia, South Africa, Haiti, Angola, Nigeria. To do anything less would be hypocritical, so clearly this discussion is not about that.

This debate cannot be about providing democratic rights for people in the District of Columbia. We have sent some of our finest to fight and die and spill their blood on foreign soil to maintain the integrity of democracy, and to advance the cause of democracy and the right of people to have control over their own destiny through the political process. To stand here and debate in any other fashion, Mr. Chairman, would be totally hypocritical.

The debate is not about these fundamental ideas. That is ostensibly what this country is about. So what is this debate about? It is about how best

to provide those rights to people in the District of Columbia. There have been three options: home rule, retrocession, and statehood. Let us look at them each.

Home rule. We all know that home rule is flawed. We have operated here on the floor of Congress as the supermayor of the super city council. We have operated as the police chief, the fire department, when we should be addressing the national issues of our time. I have always seen, Mr. Chairman, home rule as the beginning of the quest of the residents of the District of Columbia's rights and privileges, not the end; flawed.

Retrocession. Retrocession is simply a word. It is not reality. We all know that Maryland and Virginia no way, no time soon, would ever be interested in this. The District of Columbia would radically alter the politics of both of those States, so the reality is that we are not there.

Finally, by the process of elimination, Mr. Chairman, we come to statehood. The residents of the District of Columbia meet the criteria for statehood. They are committed to democracy. So is their constitution. They have the economic viability and the resources to be a State. That is unequivocal. They meet the test, Mr. Chairman.

The residents have strongly expressed their support for statehood, so they meet all the tests.

Statehood. Home rule, out the window; retrocession, not a reality. We come to statehood by the simple process of elimination. What this debate is about is whether or not 600,000 human beings shall have the right that we have sent people to fight and die over. It is the height of hypocrisy and contradiction, I would suggest to the chairman and Members, to do anything less for the residents of the District of Columbia.

The final comment I would make, this is not a local issue. This should not be in the Metro section of the newspaper. This is a national issue. All America should be outraged that 600,000 people are not provided those legitimate rights.

I would hope at the end of this day, this one opportunity we have, that 218 of our colleagues will see the wisdom of providing the residents of the District of Columbia with the simple right and prerogative that every other citizen has.

Everywhere we go in this country, when we ask a person, "How many Representatives do you have?" they say, "Three: One Member in the House of Representatives, two in the United States Senate." To the District of Columbia, "How many Representatives do you have?" "One," and there is a distorted vote, because every time the gentlewoman from the District of Columbia [Ms. NORTON] chooses to vote, someone gets up and makes us vote twice, an absurd practice, because of the incredible violent reaction to these people having the right to vote.

My hope is that at the end of the day that we will have done our job and made the District of Columbia the 51st State, and I have waited 23 years for this moment. They have waited eons of time.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just want to point out that 37 of the States that have been admitted, all the States that have been admitted, were article 4 territories. The District of Columbia is unique. It is the only article 1 territory. There is a vast difference.

Also, I do not feel apologetic for talking about the Constitution, although perhaps I should. I listened to the gentlewoman from the District of Columbia. [Ms. NORTON] and I wrote down her words. I hope I took them wrong. She said, "Constitutional issues are raised every day in here, but they don't keep people from doing what is right."

□ 1800

Now that is an insouciant, careless attitude toward the Constitution it seem to me, that document that we are sworn to uphold when we are sworn in. The Constitution is not something to be put up on a shelf, I should think. God knows during the Iran contra hearings all we heard about was shredding the Constitution. It became a document of great sanctity, and so it should.

And so it seems to me in discussing creating a new State out of the District of Columbia, we cannot just brush aside constitutional questions. There are some serious constitutional questions, and these are not redneck conservatives and people who resist change.

Certainly Robert Kennedy was not one such, even though the gentleman from Massachusetts said, "Well, you have found one thing you liked about him." How about Patricia Wald, who is now a judge in the U.S. Court of Appeals? When she testified as Assistant Attorney General in 1977, she said it can only be done by the Constitution, a constitutional amendment.

So I think we are in good company, those of us who take the Constitution a little more seriously.

In 1978 there was a constitutional amendment to make a State out of the District of Columbia. They went that route, and only 16 States ratified it. So that route is suddenly in disfavor, and we do not do that anymore. We try to do it by statute. And I just suggest that there are serious constitutional problems with doing it by statute.

We have the 23d amendment, adopted April 3, 1961, which provides that the residents of the District of Columbia will have three electoral votes. When we get through with H.R. 51 we are going to have 75 people or so, certainly the President, his wife, and his daughter, at least that family, having three electoral votes.

I wonder what some of the other States are going to think about equal protection of the law, about due process of the law.

There are serious constitutional questions involved.

Article 1, section 8, clause 17 says Congress has the power to exercise exclusive legislation in all cases whatsoever over such district as may by cession become the seat of Government.

Now, the imaginative District of Columbia lobby says OK, if Congress has the exclusive power, they can do anything they want with the District, including turn it into a State. There are serious problems there because there may be a reversion to Maryland if that happens because the land was given to the Federal City, and perhaps when we no longer use it it goes back to Maryland. If so, the consent of Maryland is necessary.

This is not a question to be brushed off.

But in addition, if we go for H.R. 51, then what do we do with article 1, section 8, clause 17? We still maintain the exclusive power over the new State. You just cannot brush those things aside. We need to amend the Constitution.

Ms. NORTON. Mr. Chairman, I yield myself 30 seconds to respond to the gentleman's notion that I trivialize the constitutional questions involved. I do not. I regard the constitutional arguments as counterfeit, and I said that this body has the right to decide for itself that this is a constitutional bill, and to go ahead and leave it to a court if it is to be overruled.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, on October 30, 1993, the New York Times editorial said it all and it answered a log of the previous speakers when it said it is hypocrisy, it is hypocrisy that America champions democracy abroad while refusing fair political treatment to the citizens of its own capital.

Before that, on July 21, 1992, the New York Times said the remedy to this hypocrisy, the remedy is to admit the District as the 51st State, as called for in the Democratic platform.

Every school child in America will agree with the New York Times. The gentlewoman from Washington stated it earlier. Every school child in America knows at a very early age that taxation without representation is a slogan on which this country was built. They know that those very proper gentlemen who dressed up as Indians and

staged the Boston Tea Party, the first radicals, the first direct action people in America, that they were seeking representation. They did not want taxation without representation. School children in modern times know that the United Nations and the United States offer as a solution to most of the international problems in the world a referendum, a vote. They demand that people have free elections. They demanded it in Cambodia, they demanded it in Haiti, in El Salvador, free elections, enfranchisement of people. Even in countries where people were not literate, and had to vote for a symbol rather than for a word, we demanded it, and we got elections in India and a number of other places, free elections, enfranchisement.

Thomas Jefferson certainly did not mean to disenfranchise 600,000 people, and certainly John Adams and the other framers of the Constitution did not foresee the disenfranchisement of 600,000 people, 600,000 people who deserve the right to vote. We must abide by the spirit of the Constitution, and we all know what the spirit of the framers stated. That is that everybody, every American citizen should have the right to vote. To do it any other way is hypocrisy.

Mr. BLILEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I could hardly believe what I thought I heard from my colleague and friend, the delegate from the District of Columbia, saying that the Constitution should be only decided in the court. Does she mean we should write laws without respect to the Constitution? I do not think so. I think we should use good judgment and be governed by that Constitution.

To the gentleman who just spoke in the well, I would like to remind him that there are some local officials telling the citizens of the District that statehood will bring lower taxes. And how they intend to keep that promise, of course, is to tax those people who do not live here, but who reside in other States.

Mr. Speaker, I yield 5½ minutes to the gentleman from the Eighth District of Virginia, the gentleman from Alexandria, VA [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my colleague from the Commonwealth of Virginia for yielding the time.

Let me begin by making it very clear that I have the highest respect for the gentlewoman from the District of Columbia. She is an untiring and unmatched champion for her constituents. She represents them with a mix of aggressiveness, intelligence and great capability. The people of the District of Columbia could not have a better voice in Congress than ELEANOR HOLMES NORTON.

And I also respect the supporters of this bill, but I know this bill is certainly not in the interest of my congressional district, or of my State, nor in the interest of this Nation as a whole.

In their wisdom, our Founding Fathers created a Capital City. It was to be independent from the sovereign States and linked to the Federal Government through a special bond. And in the past 200 years, that relationship may have been strained or strengthened at different times, but the constitutional relationship still remains.

The city houses the Federal Government. It provides emergency services, it paves the streets, it protects its employees.

The Federal Government, in recognizing its concomitant responsibility to the city, employs its residents, contributes a very substantial Federal payment, and houses its correctional facilities on Federal land in outlying States.

The supporters of this new legislation want to create a new State out of the District of Columbia. But the State they would create would be unique unto itself, and much different, much different from the other 50 States.

The State of New Columbia would be about 60 square miles and have a population of about 589,000 people. It has been mentioned that the next smallest State, Rhode Island, has a land area over 1,000 square miles compared to 60 square miles in the District of Columbia.

□ 1810

And granted, Wyoming, the least-populous State, does have somewhat less people, 466,000, than the State of New Columbia would have, but Wyoming has over 97,000 square miles. The State of New Columbia does not have the land area to sustain a State, and that land area is important, because every State in the Union, from the richest to the poorest, from the smallest to the largest, has an independent and diverse private economic base. They each have a tax base that they can independently sustain the expenditures of their State. The District does not.

Almost 40 percent of the District's gross State product comes from government employment. The District receives more than $17 billion from the Federal Government. That amount of Federal money comes out to about $34,000 Federal taxpayer dollars for every man, woman, and child who lives in the District of Columbia.

If the District becomes a State, they will be forced to rely on a continued Federal payment from the United States Government, a privilege which is not granted to any other State, and on an excessive commuter tax on the suburban residents of Maryland and Virginia.

Let us be candid, the ability to impose a commuter tax is the driving force behind the push for statehood. The mayor of the District has claimed that she would immediately impose a commuter tax on Virginia residents if the District became a State. These are taxes levied on nonresidents. They are a fee for working within a certain jurisdiction. The taxes collected would be reduced from the State taxes paid by the nonresident. Mayor Kelly has said she wanted to impose a commuter tax in which nonresidents are taxed as high as District residents. Why? Nonresidents, or as the mayor refers to them, day residents, do not use the schools, do not use the social services, trash collection, or, for the most part, police or fire departments. Why should they pay the same taxes as District residents?

The District's tax rate is 9½ percent for people earning more than $20,000. Virginia's highest rate is 5¾ percent, about half that amount.

The State of New Columbia would gain $1 billion, and that is according to the mayor of the District of Columbia, $1 billion from commuters through these taxes. Virginia would lose over $300 million, money that cannot be spent to educate their children or protect their families.

With this legislation, we are creating a State dependent on Federal assistance and taxes on commuters and incapable of being financially independent or secure.

There is one other issue that I would like to mention in the 30 seconds left, and although my colleague has said that she agrees that no State should house its prisoners in another State, the fact is the New Columbia Act gives control from the Federal Government to the State of New Columbia of about 2,000 acres in another sovereign State, in my congressional district, and that is the Lorton prison.

Now, it is one thing for the District to have to dump its trash in the landfill in Virginia, but to give over the effective control of 2,000 acres of one State into another State has no precedent and should not be any precedent.

I urge my colleagues to vote against this legislation.

Ms. NORTON. Mr. Chairman, I yield myself 30 seconds.

The gentleman has said that the mayor has said she would impose a tax on the commuters to the District of Columbia. May I remind the gentleman that the Mayor cannot impose anything by herself, that the majority of the city council has agreed that we would sit down with our neighbors before attempting to impose any tax. That is not a danger that should cause anybody not to vote for this bill.

Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise today with great honor to support the admission into

the Union of the 51st State, the State of New Columbia.

I want to open my remarks by complimenting the gentlewoman from the District of Columbia for her outstanding leadership and advocacy on this issue.

Mr. Chairman, I would like to comment for a few moments about the various reasons why the District of Columbia should be admitted as our 51st State. As has been mentioned, it has over 600,000 residents. It is greater in size than three States, Alaska, Vermont, and Wyoming.

Let us talk about taxes. Its citizens pay more Federal taxes per capita than 48 States. They add $1 billion to the Treasury. The District is the only jurisdiction that pays taxes without having representation in Congress, and that, ladies and gentlemen, is the foundation of this country, that we should not have taxation without representation, but yet we continue to do just that to the District of Columbia. Last year District citizens paid more Federal tax than residents of seven States. The U.S. Capital is the only capital city in the world among democratic countries without representation in its national assembly.

Let me mention that those who argue retrocession concede that taxation without representation is wrong. I will talk about why retrocession is wrong as well.

Not only is this the case, but Congress has absolute control over the District's decisions, so we find ourselves debating parks and the height of buildings, sound control, zoning issues.

As was commented, we should not be a super-city council.

The District contributes to our security. They have, their residents, have fought and died in every U.S. war. They rank fourth per capita among States in the number of soldiers who participated in the Persian Gulf war and fourth in the number of deaths for the Vietnam war.

Let me comment, though, about the remarks made by my colleague from Virginia, and with all due respect, let us not be afraid of the so-called commuter tax.

I represent the Fourth District of Maryland, and I will be our new State's closest neighbor, and so will my constituents.

I do not believe, as a Representative from Maryland, that we will have a commuter tax. I believe that the reality is that if the District of Columbia attempted to impose such a commuter tax there would be such a business exodus that it would not be feasible for the District of Columbia to pursue this route.

So I hope that people will not be scared into saying we should not have a new State because of a commuter tax. That is not going to happen in terms of the political realities.

Finally, let me say something about retrocession. I have been a State senator in the State, for the State of Maryland, and we have voted on this issue. We respect the wishes of the citizens of the District of Columbia. We do not want them to be citizens of Maryland. We want them to have the opportunity to be citizens of a new State, the State of New Columbia.

Mr. BLILEY. Mr. Chairman, I yield 10 minutes to the gentleman from Roanoke, VA [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise in strong opposition to this legislation. The District of Columbia constitutes the seat of Government of the United States. It was never intended that the District act as a State. Rather the intention of our Forefathers was to make it a Federal City.

I believe this legislation is unconstitutional. The District of Columbia is an article I territory, established in the Constitution to serve as the seat of the Nation's Government and consequently, the Federal City of every American. The New Columbia Admission Act does more than simply create a new State, it dramatically alters the nature, size, and efficacy of the seat of the Government.

H.R. 51 reserves the National Capital Service Area—a narrow strip of land roughly extending from the Kennedy Center east to the Supreme Court Building and south along the waterfront to Bolling Airforce Base, as the Nation's Capital. Our Nation's Capital would be reduced to a strip of land one-tenth the size of Dulles International Airport.

No previous admission act has ever sought to change the Constitution by simple majorities of both Houses of Congress and a Presidential signature. The right of the American people is being usurped today. The power to change the status of the Nation's Capital is reserved to the people in their right to amend their Constitution.

But this legislation is fatally flawed for another very important reason. H.R. 51 strips the newly configured Nation's Capital of local laws and local courts.

In reconfiguring the Nation's Capital, H.R. 51 fails to provide:

Any judicial system to adjudicate crimes or civil disputes within the Nation's Capital;

Any regulatory agencies for such basic matters as licensing professions, or businesses operating within the Nation's Capital;

Any regulatory scheme under which churches and synagogs located within the Nation's Capital may perform marriages; and

Most importantly, may even fail to provide any code of local criminal and civil law governing the Nation's Capital.

Simply put—under H.R. 51 there would be no local laws prohibiting crimes such as murder, rape, and robbery; no local laws creating tort liability arising from traffic accidents or negligence; no laws or courts regulating marriages and divorces; no local laws creating remedies for breach of contract or providing for the ownership and transfer of real and personal property.

Even if the bill can be read to leave current law in effect in the Nation's Capital—which is doubtful—there would be no courts with jurisdiction to hear cases arising under those laws.

Section 122(a) of H.R. 51 provides that "the admission of the State into the Union shall not affect the applicability to the State of any laws in effect in the District of Columbia as of the date of admission, except as modified or changed by this act or by the State constitution."

Nowhere in the bill is any provision made for any law to remain in effect within the National Capital Service Area, newly designated under section 111(B) of the bills as the District of Columbia and explicitly not included within the territory of the State of New Columbia. The sole exception that the bill provides to the rule that current local law will remain in force within the new State is where that law is modified or changed by the bill itself, or by the new State constitution.

It can hardly be contended that the current D.C. Code would remain fully in effect within the Nation's Capital since most of its provisions would apply to matters outside of the territory of the National Capital Service Area and fall under the jurisdiction of enforcement agencies no longer having jurisdiction within the Nation's Capital.

For example, laws administered and enforced by the currently existing D.C. building and land regulation administration, business regulation administration, housing and environmental regulation administration, insurance administration and occupational and professional licensure administration would, even if technically in force within the Nation's Capital, become dead-letters after statehood. The jurisdiction of those and many other agencies would be limited to territory within the new State. Of course, the Metropolitan Police Force would no longer have jurisdiction within the Nation's Capital.

Nor would Federal laws currently in effect within the special territorial jurisdiction of the United States be in effect within the new District of Columbia. In Johnson verses United States, the Supreme Court ruled that the District of Columbia was not within the territorial jurisdiction of the United States as defined in section 7 of the title 18 of the United States code. Murder, manslaughter, attempted homicide, aggravated and simple assault, rape, and robbery—although expressly

prohibited in Federal lands throughout the Nation—would not be prohibited within the newly configured Nation's Capital under this legislation.

Moreover, since the District of Columbia as newly configured under H.R. 51 is not situated within any State, the Assimilative Crimes Act would not be applicable.

While some provisions of local law currently in effect in the District of Columbia could conceivably remain in force within the newly configured Nation's Capital, whether any particular provision of the D.C. Code remains in force would ultimately be a matter for judicial determination.

Here, too, however, there exists an overwhelming obstacle: H.R. 51 does not provide any local judiciary within the newly configured Capital City. Even if parts of the current D.C. Code could be interpreted as remaining in force within the Capital City, there is no court of competent jurisdiction to provide this interpretation.

Section 12(2) of H.R. 51 provides that "The appropriate courts of the State shall be the successors of the courts of the District of Columbia." Section 103(E) of the bill specifically provides that, "upon admission of the State into the Union members of executive and judicial offices of the District of Columbia shall be deemed members of the respective executive and judicial offices of the State."

So while the local courts and the judges serving in them would continue to exist, they would have no authority over territory or laws outside New Columbia's territory.

And the Federal judiciary will not have jurisdiction over cases involving local crimes or civil suits in the newly configured District of Columbia. Section 1363 of title 38 of the United States Code expressly excludes from the Federal question jurisdiction of Federal courts, cases arising under "laws applicable exclusively to the District of Columbia." If any provisions of the current D.C. Code would remain in force within the National Capital Service Area after statehood, they would be laws exclusively applicable to the District. As such, Federal courts would lack jurisdiction to hear cases arising under them.

At this point my colleagues may question the necessity of courts and prosecutors in the Nation's Capital—after all, this will be a very narrow strip of land. Between October 1, 1991 and September 30, 1992, the U.S. Capitol Police made 1,070 arrests; 222 of those arrests were felony arrests. The Uniform Division of the Secret Service, which police the White House, foreign missions and embassies made 772 arrests in this same period. Arguably, some of these arrests were made outside of the area which will be included in the new District of Columbia, but these statistics do not even include the arrests made by the United States Park Police which also have jurisdiction over the area.

Under H.R. 51 there would be no prosecutors to prosecute these cases and no courts in which to try them.

Another problem with H.R. 51 is that besides making no provision for funding, administering or governing the reconfigured District of Columbia, and providing no laws or courts of proper jurisdiction; H.R. 51 grants judicial jurisdiction to the New Columbia State courts over crimes committed outside of its territory.

Section 123(A) (1) and (2) of the legislation provides for the continuation of all judicial proceedings in the District of Columbia courts on the day of admission in the courts of New Columbia in spite of the fact that so many of those proceedings may well involve matters that took place on territory that is not part of New Columbia—for example all those crimes committed in the National Capital Service Area.

There is serious question as to whether Congress possesses the power to give State courts jurisdiction over crimes not committed within the State's boundaries.

An even more questionable provision is section 123(B) which grants New Columbia jurisdiction over crimes committed in the District of Columbia—both the old District and the new one—but for which no writ, action, indictment, or proceeding is filed before admission.

Here you have a situation where the New Columbia prosecutor would be charged with filing charges and pursuing the case of a mugging that took place on the steps of the Capitol Building under laws that may no longer even exist, before New Columbia judges, in New Columbia courts.

The questions about competent jurisdiction, applicability of laws and a host of other matters that would be raised by a defense attorney under such circumstances lead one to conclude that H.R. 51 is seriously flawed in the way it deals with the reconfigured District of Columbia—the Nation's Capital.

Whether anyone committing a crime in the territory that will become the new District shortly before admission or in the District of Columbia after admission could be successfully prosecuted is very much subject to doubt.

Congress cannot seriously consider legislation which potentially leaves its National Capital without laws, certainly leave it without local courts and transfers jurisdiction over civil and criminal cases to State courts whose competent jurisdiction does not encompass the place where the actions originated.

I urge my colleagues to oppose this bill.

□ 1820

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, I rise today in strong support of H.R. 51, the New Columbia Admission Act.

Mr. Chairman, I would first like to say that this debate is a tribute to the gentlewoman from the District of Columbia [Ms. NORTON]. I consider it a great privilege to serve with her on the Committee on Public Works and Transportation. I can truthfully say that, in all my years in the House, I have never known a more talented, principled, and effective legislator.

Mr. Chairman, the people of the District of Columbia are American citizens. They pay Federal taxes, and they have fought and died to defend this country. No less than any other American, they share a dedication to the principles of justice and equality that have made this the greatest Nation on earth.

More than 200 years ago, we fought a revolution over those ideals. We fought against taxation without representation. We fought against the tyranny of laws passed by a legislative body in which we had no voice and no vote. That revolution changed this Nation and the world.

Yet today, this Congress regularly subjects one group of Americans to those same indignities—simply because they make their homes in the Capital City of the world's greatest democracy.

Mr. Chairman, it is time for this House to resolve to bring that injustice to an end.

This Nation is based on the principle that free men and women are capable of governing themselves—and that they have the inalienable right to do so. How can we continue to preach that message to the worldwhile ignoring it only blocks away from our own Capitol?

At the close of this debate, the House of Representatives will vote. Each of us will be accountable to our constituents for that vote. Yet of the 434 Representatives who will cast that vote, not one of us will be accountable to the people most affected—the people of the District of Columbia.

For my part, I can do nothing less than vigorously support their right to a full and equal place in the life of this Nation, and I urge my colleagues to join me in voting to pass H.R. 51.

□ 1830

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from North Carolina [Mrs. CLAYTON], the president of the Freshman Class.

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for allowing me to participate.

Mr. Chairman, I rise today in support of House Resolution 51, the New Columbia Admission Act. All representative democracies world-wide ensure the participation of the citizens of the Nation's Capital during the election of representatives to their national legislature—except the United States. Our Nation, the protector of democracy across the globe, still denies some of its own the freedom it has championed at almost any cost—the right to have a voice in government. All Americans enjoy the liberty of electing representatives to the governing bodies of our Nation—except those Americans that live within the District of Columbia. The time has come to rectify this sad truth.

The battle cry during the Revolutionary War was "No taxation without representation"—and much blood was shed in the pursuit of that end. However, the startling fact remains that the 600,000 residents of the District of Columbia are taxed without proper representation. The District of Columbia paid over $3.1 billion dollars in Federal taxes—more than 8 other States—do the citizens of the District of Columbia not deserve the same rights as all other citizens of the United States?

The history surrounding this issue illustrates the necessity of statehood for the District of Columbia. Washingtonians were denied the right to participate in Presidential elections until 1964—only 28 years ago. Only with the passage of the Home Rule Act in 1973 did citizens of the District of Columbia have the ability to choose their mayor and city council; up to that time, those municipal officials had been appointed for them. It is ironic that we, Members of the United States House of Representatives, freely elected by our constituences—willfully deny such an opportunity to the residents of the District of Columbia. It is the proper and just thing to do—so when the time comes—vote in favor of H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I am sorry to disagree with my colleagues who have spoken very eloquently on the need for full representation of the District of Columbia in this body.

I have a great feeling for what they are saying. My great-grandfather came to this city in the late 1830's. My grandmother was born here in 1860. My Mother was born here in 1894. When I went here for my junior year in high school, my grandmother, recalled very vividly Lincoln's assassination, and the pride she had as a young girl when her father, my great-grandfather, had a chance for a brief period to vote in local elections in the 1870's in the District of Columbia.

There is no question that we have had a major problem with the voting rights of citizens of the District, and we still do. Home rule should have occurred a century or so earlier. It did not. It is slowly occurring.

Mr. Chairman, there is a solution to having a Representative in Congress with full voting power, but the solution is not this legislation. The comments made by the various gentlemen on both sides of the aisle from Virginia and the gentleman from Illinois [Mr. HYDE], cannot be swept under the rug.

This legislation is clearly unconstitutional. It does not take a law degree and a court to decide if that is what it is, and we did take an oath to live by the Constitution.

Mr. Chairman, the simple solution is what has been suggested many times. As we gave the Virginia portion of the District of Columbia back to the State of Virginia in 1846, we should give with the exception of a small Federal core of the major buildings and monuments of this city the District of Columbia portion what was ceded to form that District from Maryland back to the State of Maryland.

States are not artificial creations. Whether they evolved as colonies, whether they evolved as territories, they had natural boundaries in their mountains and their rivers. They had an economy. They had a culture. They had a series of aspects that made them states with identity. Marylanders were different than Virginians.

From time to time, my own State of California has wanted to divide into two or three states. I am opposed to that, just as I am opposed to this legislation which seeks to create a State out of an artificial construct known as the District of Columbia.

Again, the solution is let the citizens who are legal residents of the District of Columbia vote in the State of Maryland. They will have an opportunity to elect their own Members of the House and they can help participate in the election of two Senators from the State of Maryland.

Then there will be full representation in accord with the Constitution.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise today to speak in favor of D.C. statehood.

As a resident of both Los Angeles and Washington, DC, I am acutely aware that my neighbors in both cities have strong national and local concerns. The difference is, however, that while my Los Angeles neighbors elect Members of Congress who, through the power of their vote, can determine and protect their personal interests and future quality of life, my D.C. neighbors are currently being denied that basic right of full representation.

As a result, D.C. residents find that they must abide by national and even local policies which have ultimately been decided by those other than themselves. Every law and budget, for example, approved by the District must survive the over-riding veto power of a U.S. Congress composed of voting Members from everywhere else in the United States but Washington, DC.

The situation is so absurd that the District cannot even reschedule its own garbage collection without having to ask the U.S. Congress for permission to do so.

It is patently unfair for Congress to micro-manage District affairs, denying true and full voting District representation. I wonder how many of us in Congress would appreciate having to live under the situation with which the residents of DC must function daily.

I suspect few of us would willingly embrace such an unfair concept. Why then do we expect the residents of the District to continue to remain powerless?

Mr. Chairman, the matter of the State of New Columbia is one of fairness and equal representation. The time has come to recognize the citizens of the District by providing them the full voting representation afforded by statehood in our great Nation. I urge my colleagues to vote "yes" on H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I rise today in opposition to H.R. 51. Article I, section 8, clause 17 of the U.S. Constitution designates a seat of Government under the exclusive control of the Federal Government, outside the boundaries of any State. The intent of the Framers of our Nation's Constitution was to establish a Federal city independent from the control or undue influence of any individual State. They did this because of their experiences with the problems of having the seat of Government under the jurisdiction of an existing State. Our Founding Fathers, specifically James Madison, knew of the overriding necessity for national deliberations and policies to be made free and without influence from a provincial tincture.

This is clearly written into the U.S. Constitution. The only way to change this is through a constitutional amendment which must be ratified by three-fourths of the States, not through a statutory change from Congress.

It is inexplicable to think that Members of this body would seek to circumvent the same system which gives this body its power.

There are several practical things wrong with this legislation. The advocates of D.C. statehood argue that they pay taxes to a Federal Government in which they are not represented. I know of no other city or district in this Nation which has a Delegate Representative, a full House committee and a full Senate subcommittee assigned to address its particular interests.

The District of Columbia, in addition to the Federal payment, receives funding under many other Government programs. The District of Columbia receives $4.92 in Federal resources for every $1 its residents pay in Federal taxes making the District of Columbia a donee entity. Indiana receives 82 cents for every $1 Hoosiers pay to the Federal Government, making Indiana a donor State.

And let us not forget, a requirement of a State is that it must have sufficient population and resources to support State government and to provide its share of the cost of the Federal Government. Authors of this bill have creatively come up with provisions to ensure that the State of New Columbia indefinitely receives subsidies from American taxpayers. We would literally be paying New Columbia for the privilege of becoming the 51st State.

The District of Columbia lacks the fundamental characteristics of a State. New Columbia would lack sufficient economic resources independent of the Federal Government. The District's largest private employer is the Washington Post. The 50 States share a diversity of industry which sustains their economies. They are all encompassing of both urban and rural economies, farms, office workers, manufacturing, and service industries, each with room for expansion in terms of land, population, and economic base. The District of Columbia lacks such characteristics.

Mr. Chairman, I think it is clear that not only is this bad legislation, legislation which is clearly against the intent of our Founding Fathers and circumvents the U.S. Constitution. I urge my colleagues to stand up for the intent of our Founding Fathers and the interests of their constituents and preserve the Nation as set out in the Constitution by voting against this bill.

□ 1840

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of civil rights for all Americans, and I rise in favor of statehood of the District of Columbia.

There is no disputing that this is a civil rights issue. If people in the District of Columbia want nondiscrimination policy in employment and housing, they should have it. If they want to enact a law to allow gay and lesbian couples to adopt, they should have it. If they want a domestic partnership law, they absolutely should have it. Mr. Chairman, it is a violation of the rights of gays and lesbians who live here for the Federal Government to treat them differently than other American citizens. Mr. Chairman, it is a violation of a D.C. woman's right to reproductive choice for the Federal Government to extend its hand into her private life. It is a violation of the civil rights of over 600,000 people to deny them a Governor; to deny them full representation in the Senate and the House of Representatives; and to prevent them from governing themselves.

Mr. Chairman, I urge my colleagues to cast their vote for civil rights tomorrow. I urge them to vote for D.C. statehood.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Puerto Rico [Mr. ROMERO-BARCELO].

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ROMERO-BARCELO. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. Mr. Chairman, I rise this afternoon in strong support of H.R. 51, the New Columbia Admission Act. Mr. Speaker, today's vote in support of H.R. 51 is another in a series of Congress' gradual extension of full citizenship to various segments of this society. With each vote, Congress has moved closer to the More Perfect Union envisioned by the Framers of the Constitution. Chief Supreme Court Justice Warren Burger wrote that this Constitution is not perfect today, even with its amendments. Nonetheless, it was designed to satisfy the peoples' yearning to be free.

The people in the District of Columbia have sent a clear message to this body that they are yearning for freedom. They deserve freedom, today, my colleagues, we must pass H.R. 51 and give them that freedom.

In 1978, Congress granted the District of Columbia voting rights. Only 6 years earlier, the equal rights amendment passed the Congress, which would have eliminated gender as a basis for any decisions made by a State in the United States.

Unfortunately, the States did not ratify the equal rights amendment, but it has become the basis underlying many statutes and court decisions.

One year before, Congress allowed 18-year-old citizens the opportunity to vote. Congress proposed this extension of citizenship in March 1971 and it was ratified by the States in July 1971.

An important and highly debated extension of full citizenship was proposed by Congress in August 1962 and was ratified in January 1964. The 24th amendment eliminated the poll tax, abolishing the most repugnant tool of the racist South that prevented poor and African American citizens their most important right—the right to vote.

Two years before Congress proposed the act of citizenship for African Americans, it proposed to all D.C. residents another indicia of full citizenship, the right to vote for President.

Women in this Nation were extended full citizenship in August 1920, 1 year after Congress proposed the 19th amendment, mandating that the Government grant women the right to vote as a full citizen should.

In a measure that allowed the Nation to become full partners in the election of its leader, Congress proposes popular election of Senators in 1912, and ratified the measure in April 1913.

Mr. Chairman, our former colleague, D.C. Delegate Walter Fauntroy said that D.C. statehood is the unfinished agenda in the drafting of the Constitution of the United States.

Today, I urge my colleagues to finish the job. Our Declaration of Independence says "to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

Admitting the State of New Columbia into the Union proves that we really believe in Government with the consent of the governed.

Mr. ROMERO-BARCELO. Mr. Chairman, every day when I walk into this hall I live the frustration of disenfranchisement. I am not able to vote. I represent 3½ million citizens in Puerto Rico.

Today I heard arguments, many of them technical, other legal, and other constitutional, and I would like to step aside from those arguments and address the issue and not the details, and the issue here is:

Can the United States, can this Nation, which is the example and the inspiration of democracy throughout the world, which inspired the revolt in Tiananmen Square in China, which inspired all nations in Eastern Europe to revolt against the tyranny of Communism and Russia itself, can this Nation allow a situation where 600,000 of its citizens are disenfranchised, denied the right to vote and their representation?

The issue has been discussed from the point of view of no taxation without representation, and that is a very, very valid argument, but there is an even more valid argument. It goes right to the basis and the definition of democracy itself. Six hundred thousand U.S. citizens are being governed without their consent, and that is a gross violation of the most fundament tenet of democracy. The definition of democracy itself is government with the consent of the governed, and how can there be a democracy where the governed have not consented to be governed? And this happens in the Nation's Capital. Can Congress refuse to seriously address this issue?

This is why we ask for a vote in favor of H.R. 51: a vote for H.R. 51 is a vote for democracy, and, if for some reason there were not to be a favorable vote tomorrow, then let us determine that this is not the end of the issue, but the beginning.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, the absurdity in this debate shines through by virtue of the fact that the gentlewoman from the District of Columbia [Ms. NORTON] that is managing the time, when we resolve out of the Committee of the Whole, will not even have a vote on whether or not the District of Columbia should become a State.

I have sat through all the debate this evening and countless other debates over the years regarding D.C. statehood. One of the things that is argued

is that there is no economic viability here. Well, that is just absurd. Among other things there is economic viability in the hotel and lodging industry, there is economic viability in the number of individuals in this city who earn $488 per week, there is economic viability in the 20 million tourists that come to this city.

Now I have heard arguments, which I conceive as specious, that we should retrocede. Well, let me ask my colleagues, if we make a city a State, there are those who propose that we should retrocede into Maryland. Can we not then, as a Congress, make that same city into a State as we are requesting here? I find it more than absurd that we see these specious arguments over, and over, and over again regarding retrocession.

Mr. Chairman, the people of the District of Columbia pay taxes to the Federal Government but receive none of the benefits of Federal representation. Its citizens are the only people in the United States who pay taxes but are denied full representation in Congress. It is contrary to the beliefs upon which this great Union was created that one group of people is expected to contribute to the Union, but then are not given the same benefits as the other members of the Union, and there is absolutely no justification for the disgusting budget display that the non-voting Representative of the District of Columbia must undergo every fiscal year.

□ 1850

While the constituents of the gentlewoman from the District of Columbia [Ms. NORTON] are forced to pay taxes, she must grovel in Congress to have even a small voice in deciding how those very few funds are spent. And I am referring to funds raised directly from her constituents, not the meager Federal supplement that the city receives to compensate for costs of providing security services for Federal representatives, foreign dignitaries, and government officials.

This is surely a giant miscalculation of how the framers of this Union viewed the seat of Government. There are 546,000 citizens of the United States who are not represented, and it is overdue time that we make the District of Columbia the 51st State of the United States.

Mr. Chairman. I rise today to express my support for H.R. 51, Congresswoman NORTON'S legislation to give statehood to the District of Columbia. I advanced support of statehood for the District in my campaign for Congress, and, I promised the people of the District. I would support same.

H.R. 51 reduces the Federal seat of Government to include the area around the Monuments, the White House, most Government buildings and the Capitol itself. Under H.R. 51, this area would become Washington, DC and will remain the Nation's Capital under exclusive jurisdiction of the Federal Government. The remaining neighborhoods, wards 1–8, will constitute a new State.

Mr. Chairman, the people of the District of Columbia pay taxes to the Federal Government but receive none of the benefits of Federal representation. Its citizens are the only people in the United States who pay taxes but are denied full representation in Congress. The people of the District of Columbia are as deserving of the same representation as every other citizen of the United States!

It is contrary to the beliefs upon which this Union was created that one group of people is expected to contribute to the Union but then are not given the same benefits as the other members of the Union.

And there is absolutely no justification for the disgusting budget display that the non-voting Representative of DC must undergo every fiscal year. While Congresswoman NORTON's constituents are forced to pay taxes, she must grovel in Congress to have even a small voice in deciding how those very funds are spent. And I am referring to funds raised directly from her constituents—not the meager Federal Supplement that the city receives to compensate for the cost of providing security services for Federal Representatives, foreign dignitaries, and Government officials.

The sight, during each debate, of Members from across the country who can't even begin to understand what it means to live in a major city, seeing them dictate to the voters of DC how they may and may not spend their own money, strikes me as patently unfair.

This is surely a giant miscalculation of how the Framers of this Union viewed the seat of Government. There are 546,000 citizens of the United States who are not represented. I find that unpalatable and hope that all of my colleagues will join me in rectifying this gross abuse by passing H.R. 51.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, as a new Member of Congress, I seldom rise to speak on matters, preferring instead to observe and learn the ways of this body. I have no illusions as I stand here today that I will affect the outcome of this debate. But on occasion, I am outraged by attitudes and positions that seem unjust to me.

For 22 years I practiced law, trying to stand up for people's rights to participate and be involved in a democracy. And here we have in this situation 600,000 people who are citizens of this country, with no representation in this country. We can fight and cajole other nations about the democratic principles for which our Nation stands and our Constitution stands and how we believe in justice and the right to vote, and yet deny our own people their legitimate right, right here in this country. Not only in this country, but right under the seat of this country's government.

District residents pay Federal taxes. They have an economy that is larger than 19 States. Yet we say to them, you are not citizens for the purpose of the right to vote.

Mr. Chairman, I ask for support for D.C. statehood.

Mr. Chairman, I rise in support of H.R. 51 and I rise in support of statehood for the District of Columbia.

The facts are abundantly clear. District residents pay Federal taxes at a higher rate than all but three States; yet they are denied full representation in the Congress.

The District of Columbia has an economy larger than that of 19 States; yet its residents are denied the basic American right of self-government.

This Congress, the entire Federal Government and indeed, this Nation, reap the benefits of the use of the District's land and profit from the abundant tax revenue, talent and productivity of its residents.

Perhaps opponents of D.C. statehood find this situation convenient; but it is also unjust. It is a vestige of institutionalized second-class citizenship and I urge my colleagues to join with me in removing it from our Nation's capital.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK. Mr. Chairman, I rise today in support H.R. 51, the New Columbia Admission Act. During the past week we have heard numerous members of this body rail away at other members involved in political wheeling and dealing. Well now, those who cried foul are choosing to ignore this, that act seeks to redress the fundamental inequity of a 200 year old political deal.

A deal which has resulted in the more than 600,000 citizens living in our Nation's capital to suffer taxation without representation.

A deal which will continue to deny citizens of our Nation's capital what has been entitled to them since birth.

A deal which compromises the most basic rights under which our Nation was founded.

A deal that is now supported by some in the House, not for constitutional purposes, but rather selfish, beliefs.

The debate on D.C. statehood is about the civil rights, indeed the human rights, of American citizens. In October, the Statehood Solidarity Committee petitioned the Organization of American States [OAS]. That petition charges this House of Representatives, the Senate, and the Executive with denying Washingtonians the human right to participate in national government through duly elected representatives.

Mr. Chairman, that human rights violation would also be a violation of the OAS Charter. The OAS Charter, to which the United States is a signatory, states, "Every person having legal capacity is entitled to participate in the government of his country, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free."

Mr. Chairman, I believe in democracy. I do not believe in democracy

with exceptions. Some of my colleagues have approached me to say that "statehood for the citizens of the District of Columbia is a good idea, but * * *" And then they go on to explain that it would violate the original conception of the Founding Fathers. There are an abundance of explanations and excuses that follow the word "but." In that dependent clause preceded by the word "but" they defend democracy with exceptions. I say to them, the day of exceptions is gone.

Mr. Chairman, the Founding Fathers had no conception that African-Americans would one day be full-fledged citizens. The Constitution expressly provided that they were to be deemed three-fifths of a man. We African-American citizens know that constitutional conception and implementation are two different things. The founders of this Nation did not contemplate the disenfranchisement of 600,000 American citizens.

This House is at center stage. Do we believe in democracy with exceptions, with excuses, with dependent clauses that contain any old explanation or excuse? Or do we believe that all American citizens are entitled to full representation in this body and in the Senate? The test of that conviction will determine our vote.

Mr. Chairman, all over the world, we are a force for democracy—except in our own capital. I find that ironic. Among the great triumphs of this decade we celebrate progress toward enfranchisement for Africans in South Africa, Palestinians on the East Bank. Amongst the setbacks of everything we hold dear has been the rebuff of our attempts to restore Aristides to his duly-elected position and our inability to get China moving toward some recognition of basic human rights. We know what we stand for as a nation. Why do we have so much difficulty with that when it comes to 600,000 citizens in our Nation's capital.

I know there is a reason. Finally, the District is our play toy. Let's play local government we say, and some of us get a bizarre gratification from being able to play super-Mayor. We get the chance to be the legislators for a town where we live, but don't have to stand for election. We get a sense of importance because people in the District have to treat us like local gods when no one else does, certainly not our own constituents. What it boils down to is this: we would deny fellow ctizens the vote, because we prefer the zone system for taxis, and the perks that come from disenfranchising others. District voters have sent us a message—they will not be held hostage; they are not on a plantation.

Mr. Chairman, I am calling on my colleagues in this House to please vote to support New Columbia. It is a new day.

The CHAIRMAN. The Chair would advise Members controlling debate time that the gentleman from Virginia [Mr. BLILEY] has 47 minutes remaining, and the gentlewoman from the District of Columbia [Ms. NORTON] has 45 minutes remaining.

Mr. BLILEY. Mr. Chairman I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, statehood will not work, and it is not fair. It will not work constitutionally. Today, we have not heard one rebuttal for the impressive constitutional arguments that have been offered.

It will not work economically. This area cannot even function as a city without the $620 million Federal payment, and that is acknowledged by the fact that the plan that is being presented to us is dependent on the Federal payment being continued.

It will not work practically. An area like this cannot ask to have the National Guard patrol its streets one week, and then expect that a call for statehood will be taken seriously a week later. It just will not be taken seriously, because it is not practical. The area is not even functioning as a city.

This plan that we have been offered does not even function well and will not even function at all. The boundaries make it so that if the new State of Columbia would depend on a commuter tax; a person that worked in a building, if his desk was in one part of the building, he would be liable to pay the commuter tax; if his desk was in another part of the building, he would not be liable to pay the commuter tax.

The plan that has been presented is not practical, it will not work, but it is not fair either. Statehood is not fair. Statehood as a solution to the equal representation problem is not fair to the rest of the people of the United States. The people of my State have over 50 times the population of the people of this area, and they are represented by two U.S. Senators. If the District of Columbia gets two U.S. Senators, Orange County should get eight U.S. Senators, because we have over four times the population of this area.

No, the fact is, statehood is being presented not to solve the equal representation problem, and that really is an issue that should touch people's hearts.

□ 1900

Statehood is being suggested as a solution to this problem in very emotional terms, as if this is our only alternative other than to deny equal rights to 600,000 Americans that live here, because this is part of a power grab to provide two U.S. Senators to the Democratic Party. That is what this is all about. That is why retrocession, which we have offered as an alternative, just like the constitutional argument, is being just totally dismissed without any real look at it or discussion as an alternative.

Retrocession offers to us a chance to give these people their civil rights, people who deserve to have equal representation in Congress. And it is fair to the rest of the country, and it is constitutional, because that is what the Founders took, that property, originally from the State of Maryland. They took it from Virginia. We gave that back to Virginia.

If people think that the representation of these people is a meaningful issue, they should look at retrocession seriously rather than dismissing it.

Ms. NORTON. Mr. Chairman, I yield myself 10 seconds.

I say to the gentleman from California that Orange County already has 2 Senators. Their names are Senator FEINSTEIN and Senator BOXER.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I am not one to make predictions, but it was ironic that I hear from my good friend, the gentleman from California, remarks that this whole issue is somewhat politically motivated to provide two additional Senators in our Democratic ranks. Interestingly enough, historically that was also the concern politically as some of the people thought that giving the State of Hawaii statehood was that it was going to provide 2 Republican Senators. And exactly the reverse of that happened to the State of Alaska, when it became a State.

I just want to make that as an observation. We do not know what the predictions are going to be in terms of political affiliations. I think we ought not to make those kinds of predictions.

Mr. Chairman, I rise today in strong support of H.R. 51, a bill which will being the process to create the 51st State of the United States, the State of New Columbia.

The gentlewoman from Washington, DC, Ms. NORTON, is absolutely correct in her assertion that the federal government treats Washington, DC, like a plantation. Since the United States moved its Capital here in 1800, the taxpaying residents of Washington, DC, have been denied full representation in Congress and have been treated in a subservient manner reminiscent of a day long ago when slavery was still institutionally acceptable.

The issue here today is the same issue faced by our Nation's Founding Fathers who so bravely fought against the forces of imperialism, dictatorship, oppression, and the forces that, to this day, perpetuate the notion that taxation without representation is acceptable—as long as its practiced on someone else. I do not believe that anyone in this Chamber today would tolerate this situation if taxpaying citizens of your State were subject to the same conditions we impose on U.S. citizens of Washington, DC.

Washingtonians have long been denied constitutional rights that citizens from the several States of our Nation at times take for granted. United States citizens from Washington, DC, were not allowed to vote in Presidential elections until 1964. And it was not until the home rule law of 1973 that they could elect a mayor and establish an elected city council. I can appreciate what it means to be governed by appointed officials. Sometimes such political appointments are familiar with your needs, and sometimes you get appointees who have no knowledge or appreciation of your needs—and that hurts.

Some oppose DC statehood on the grounds of the Constitution. As required by the Constitution, this bill retains the existence and independence of Washington, DC—but reduces it only to those areas required by the Federal Government to function effectively. This includes the areas surrounding the Capitol, the White House, and most government buildings. This will become Washington, DC, and will remain the Nation's Capital, under the exclusive jurisdiction of the Federal Government, as constitutionally mandated. The neighborhoods of the District which are not related to the Federal presence, will constitute the new State of New Columbia.

There is nothing new about this. Twice before in our history, Congress has changed the size of Washington, DC. In 1791, Congress increased the size of the original area with no objection from the 20 framers of the Constitution, among them, James Madison, who served as a Member of Congress. Then in 1846, Congress reduced the size of the Capital by one-third when it ceded that part to the State of Virginia.

I have heard some argue that we should just return the District back to Maryland. This is a ridiculous argument. To return the District to Maryland would require Maryland's consent and recent polls have shown that only 7 of 189 Maryland State legislators support retrocession. In addition, DC residents voted only for statehood, and retrocession would violate their right to self-determination.

Mr. Chairman, some have even argued that DC is too small to be a state. Constitutional qualification has never been based on the size of the territory, but that population is an essential factor. Today, the District of Columbia has more people than three States—Alaska, Wyoming, and Vermont. When Alaska was admitted as a State, it had a population of only 206,000. The District's population today stands at more than 600,000.

Mr. Chairman, what about taxes? This is one of the focal points of this debate. In 1991–92 the District of Columbia paid approximately $4 billion in Federal income taxes. This is more Federal taxes than those paid by residents of Alaska, Delaware, Idaho, Montana, North Dakota, South Dakota, Vermont, and Wyoming.

Mr. Chairman, taxation without representation was the cry that was heard throughout the world and which started the revolution that formed a great Nation. It is the height of hypocrisy for us to claim to be the champions of democracy when we deny 600,000 U.S. citizens who reside in the District of Columbia meaningful and full representation which is currently absent in the Senate and in the U.S. House of Representatives.

Mr. Chairman, I am reminded of a statement made by the late Martin Luther King, Jr., when he said, and I quote, "* * * cowardice asks the question, is it expedient? And then expedience comes along and asks the question—is it political? Vanity asks the question—is it popular? Conscience asks the question—is it right?"

Mr. Chairman, let us do the right thing today. Give our fellow U.S. citizens from the District of Columbia full representation in the Congress by establishing the State of New Columbia.

Mr. Chairman, I urge my colleagues to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Chairman, I thank the gentleman for yielding time to me.

Our fellow citizens of the District of Columbia deserve voting representation in the House of Representatives and in the U.S. Senate. But making the small city of Washington, DC, into a State is the wrong way to do that. I oppose making this small city a State, not only because, as my colleague, the gentleman from Illinois [Mr. HYDE] has so eloquently described, it would be unconstitutional to do so by statute. I do so not only because it has no industrial base, a shrinking population, no tax base, and no significant territory and, thus, fails the test for becoming a State. I do so also because giving two Senators to a city with a population one-fifth the size of my county, which is itself a suburb of Los Angeles would do great violence to the principle of one person one vote.

We have heard tonight that the principles of democracy suggest that this small city should itself be made into a State. In fact, democracy would be insulted by so disenfranchising the people of California, whose 31 million people must share about two Senators. By the likes of the D.C. statehood advocates, who claim to support one person-one vote, California should be entitled, therefore, to more than 50 Senators.

We are long passed the 18th century exigency that gave rise to the great compromise of our Constitution, whereby popular democracy was sacrificed in order to induce 13 independent States to give up their sovereignty and sign a Federal compact. Even then, in 1787, our Founding Fathers were aware that giving each State two votes in the Senate would violate our first fundamental principles and our beliefs in representative democracy, because small States would gain as much power as large and heavily populated States.

That is why many of them, even then, in 1787, opposed it.

In his scholarly book on the Constitutional Convention, the Washington Post Supreme Court correspondent, Fred Barbish, notes that James Madison was intense on this subject. Madison believed that denying popular representation in Congress was impure.

If America's was to be a government by the people, then the people, not the States, should be represented. Madison believed that it would be unjust to let States rather than people vote.

Why should, he asked, the power of 700,000 people, which was the 18th century population of Virginia, equal the strength of 59,000 people, which was then the population of Delaware? This, he believed, and he was right, was antidemocratic. It was a fundamental violation of the principle of one man-one vote.

But there would have been no Constitution without compromise, even if the compromise meant compromising away our democratic principles. And so on a hot Monday in June 1787, the Constitutional Convention in Philadelphia voted on a motion to give each State, rather than people, one vote in the Senate.

Then six States voted aye; six States voted no; and the 13th State, Georgia, split. One of the Georgia delegates, Mr. Baldwin, voted aye. The other, Mr. Houston, voted no. The Convention was deadlocked.

To break the deadlock, a committee of compromise was formed, men like George Mason of Virginia, Elbridge Gerry from Massachusetts, and John Rutledge of South Carolina worked over the Fourth of July while the Constitutional Convention adjourned.

Finally, this committee of compromise composed what we today know as our bicameral legislature, in which we have proportional representation in this House, the House of Representatives, and State representation in the Senate.

The Senate half of this arrangement was, of course, antidemocratic. But the delegates to the Constitutional Convention were certain that it was necessary in order to win agreement from sovereign States to give up their powers to a Federal Government. But because letting States vote violated Democratic principles, this compromise did not go down easily.

Madison and many other of the delegates opposed it bitterly. According to Barbish, Madison was still concerned about it more than a year later when he wrote in the Federalist Papers that the Constitutional Convention was

"compelled to sacrifice theoretical propriety to the force of extraneous considerations."

□ 1910

So it is that today this antidemocratic feature remains in our Constitution. In 1787 it was a necessary compromise against our commitment to the principle of one person-one vote, but today, in 1993, there is no longer a need to do violence to our democratic principles. There is no longer a need today, as there was in the 18th century, to do violence to our democratic principles in order to extend the franchise and in order to extend representation in this House and in the Senate to the people of the District of Columbia.

Those who believe in one person-one vote cannot, and importantly, need not in the 20th century seriously dilute the votes of Americans in the 50 States. To paraphrase James Madison, why should 600,000 people in the District of Columbia have the power of 31 people in California? Why should this tiny enclave of DC rank with New York, Pennsylvania, Ohio, Texas, and California?

Mr. Speaker, on July 9, 1846, Congress gave the southern portion of the District of Columbia back to the State of Virginia, from whence it came. Mr. Speaker, this Congress should return the residential northern portions of the District of Columbia to Maryland, from whence they came. That will give the American citizens in the District of Columbia proportionate representation in this House. That will give them two votes in the Senate. It will do so without violating our sacred principle of the one person one vote.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Chairman, our country was founded on the principle that government should be representative. At the beginning, that principle was observed in an incomplete way. Most Americans were excluded from representation then; many people in this Chamber today would not have met the Constitution's qualifications for representation. But we have grown as a nation since then. We have learned that we cannot say we honor the principles of representative government unless we extend representation to everyone.

No one here today would say that the Constitution was right to exclude women from representation; no one would say it was right to exclude people on the basis of their race or status. I find it sad and disturbing that this body has still not seen fit to acknowledge that it is equally wrong to deny our fellow citizens their right to participate in representative government because of the place of their residence.

Some of the arguments we are hearing against statehood strike me as remarkably thin. We have heard that we must preserve a seat of government that is free from the institution of democracy. But this statehood bill does preserve that independent zone. The Constitution does not say that that zone must include Georgetown or Deanwood or Congress Heights. It does not say that the residents of Chevy Chase north of Western Avenue must be represented, while their neighbors to the south must not.

The proposal to solve the dilemma by ceding part of the District back to Maryland at least acknowledges that the citizens of the District are being wronged, but ultimately, it is just as unfair and just as undemocratic as continued denial of representation. Maryland and the District have been separate from each other longer than most of the States. When the District was split from Maryland, Ohio was still joined with several other future States in the Northwest Territories. The western States were all still foreign territory. Would we suggest that some of those States should be forced back together against their will? Would we say that now that the Civil War has ended, it is time for West Virginia to come back to Virginia? If the people of the District want representation, they deserve the same representation that the residents of much newer territories were given.

I ask my colleagues today: If you truly believe that all Americans deserve representation, how can you continue to justify denying it to the citizens of the District? If you truly believe the citizens of the District deserve representation, how can you deny them full representation in both the House and the Senate? Do not tell us that intellectual and historical dilemmas must continue to stand in the way of representation. It is time that we complete our process of growth, and extend representative government to all Americans. I ask that you support the bill.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise in support of the final passage of H.R. 51, the New Columbia Admission Act, which would provide for admission of the State of New Columbia into the Union as the 51st State.

The 600,000 Americans residing in the District of Columbia are denied the right to send people to Congress who can vote on taxes or decide questions of war and peace, while at the same time expecting them to shoulder the burdens of citizenship, including the obligation to pay taxes and to fight and die for their country. Mr. Chairman, this is un-American.

Disenfranchisement is not in keeping with a representative democracy which is what the United States of America is supposed to be. No other democracy in the world denies voting representation to the citizens of its capital.

I am asking my colleagues to rise above politics and imagine yourself a citizen of the District, with limited voting representative in Congress, watching as Congressmen questioned not just the vote you had cast in your city, but your entitlement to tax dollars that you had paid to local government for local use. How angry would you be at this second-class citizenship? Let us vote for H.R. 51 and statehood for the District of Columbia.

In closing, let me commend Delegate ELEANOR HOLMES NORTON for her work on behalf of the District. ELEANOR, you have done a wonderful job for your constituents, and they are lucky to have you.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I am enormously proud to represent the very great State of Vermont—a State which has a magnificent history and which, today, is making a major contribution to the well-being of this country in so many respects. And we are doing all of that, and more, with a population of less than 600,000—a population smaller than Washington, DC's.

Mr. Chairman, how can I in good conscience say that it is appropriate for Vermont to have two seats in the U.S. Senate, a Congressman who can vote on all the issues, a governor and legislature with full decision making power for the people and then say that the people of the District of Columbia, with a population larger than Vermont's, should not be able to enjoy those same rights.

Mr. Chairman, this debate is about one thing, and one thing alone. And that is whether the people of Washington, DC, are entitled to be full citizens of this country or whether they are not entitled to be full citizens. To me the answer is obvious and I intend to vote "yes" for statehood for the District of Columbia.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, this area cannot be admitted to the Union as a State unless it does so on an equal footing to all other States.

Mr. Chairman, the delegate from the District of Columbia has insisted that the State of New Columbia desires only equal treatment, not special treatment. As she said in a floor speech on October 13:

> We do not want to admit the District of Columbia as New Columbia without according it what is available to every other State, a payment in lieu of taxes that meets certain qualifications. That is all that we would expect.

However, section 203 of this bill provides New Columbia a special payment

"in order to compensate the State for unavailable tax revenues and other effects on the revenues of the State resulting from the significant presence of the Federal Government within and nearby the State." That is language that sets up a special payment available to no other State, just like the current Federal payment.

I offered an amendment in committee to strike this special payment provision, and to insert its place language clarifying that the State is entitled to payments in lieu of taxes on the same basis as every other State, and nothing more, thus carrying out the stated purpose of the delegate. However, that amendment was defeated on a 4–7 party line vote, with the opposition led by the delegate from the District of Columbia.

In case any Member might think the State of New Columbia should be entitled to something special, let me reiterate that no other State gets a payment in lieu of taxes for Federal buildings, even though they provide police and fire protection for them.

Mr. Chairman, I include this chart, which sets forth the proportion of Federal ownership of land:

*Federal ownership of land; States with higher Federal ownership than proposed New Columbia*

| | *Percent* |
|---|---|
| Nevada | 82.27 |
| Alaska | 67.80 |
| Utah | 63.78 |
| Idaho | 62.57 |
| California | 60.92 |
| Wyoming | 48.77 |
| Oregon | 48.17 |
| Arizona | 43.32 |
| Colorado | 34.06 |
| New Mexico | 33.11 |
| Washington | 28.98 |
| Montana | 27.73 |
| Louisiana | 22.65 |
| New Columbia (proposed) | 21.8 |

Source: "Public Land Statistics 1990," U.S. Department of the Interior, Bureau of Land Management, table 4, pg. 5.

New States are supposed to be admitted on an equal footing with all the other States. Equal means equal, and not a special payment no other State can qualify for. None of our States gets a payment for Federal buildings within its boundaries, much less nearby its boundaries, as is provided for in this bill. Even those in favor of statehood should be embarrassed about voting for a statehood bill that provides such blatant favoritism for another State over their own State. Section 203 is reason enough for any Member to vote against H.R. 51.

□ 1920

Ms. NORTON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to read into the RECORD some of the organizations who have passed resolutions in support of the District of Columbia: the entire Leadership Conference on Civil Rights, which has designated D.C. statehood its No. 1 legislative priority for the 103d Congress, the American Baptist Churches, the AFL–CIO, the Philip Randolph Institute, the American Jewish Congress, the Church of the Brethren, Conference of United States Women, Common Cause, and the criminal law and individual rights section of the D.C. bar. I will read in other names at a later time.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, let me begin first by commending the gentlewoman from the District of Columbia for her tireless struggle to fully and finally enfranchise the residents of the future State of New Columbia. Several of my colleagues from the State of California have spoken against H.R. 51. Let me also now speak as a colleague from the State of California.

My State is this Nation's largest State by population, by economy, and by diversity, and one of the largest States in this Nation by land mass. It has 52 of the 435 Representatives in this House, yet only 2 Members in the Senate.

Yet I will tell Members right now that I welcome with open arms the one Representative and the two Senators from the State of New Columbia. I do so because the issue here is not merely size or wealth. The real issue boils down to participation and representation for all Americans.

We as Americans have no right to deprive any fellow American of equal rights when we demand of them equal responsibilities. The gentlewoman's struggle, our struggle is just, it is constitutional, and perhaps most importantly, my friends, it is time.

I urge all of my colleagues to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to revisit an item that I brought up during the course of the debate on the rule, and that has to do with borders of the State of New Columbia and what would be the Federal enclave.

My chairman said, and the gentlemen from Massachusetts earlier said, what difference does it make. Well, it makes every difference. I mean, if you are not going to respect a Federal enclave, why have any of it? Just put it all in the State of New Columbia. If you are going to recognize the Federal interest, you should be consistent and recognize all of it.

Now how did this come about? It came about because first, in 1986, one of the previous times that we considered statehood in the committee, the National Capital Planning Commission said we should do a survey. Well, 7 years have passed by and there has been no survey.

And on November 3, in committee, the amendment was offered and adopted that deleted the words "affronting and abutting," and then proceeded in this legislation to name the street that it goes up and down and around and across throughout the city. And what we end up with is a hodgepodge and a lot of omissions.

GSA, the new Federal Executive Office Building. People say what is the difference. Well, it means that these people would be subject to taxes in New Columbia. These people working over here for the same White House will not be subject to those taxes.

The Veterans' Administration, courts, and Members see the list over here. The FBI. And the most egregious of all you have here, the Department of Labor, in which it goes this wing is in New Columbia, the middle is in the Federal enclave, and the other wing is in New Columbia.

And then we zigzag around, and we are coming up over here beside the Russell Building, and we manage to put Dirksen and Hart both in New Columbia.

That is ridiculous, and for that reason alone, not even counting constitutional questions and the financial questions, for that reason alone H.R. 51 is fatally flawed. It ought to be voted down and sent back to the committee.

Mr. Chairman, I reserve the balance of my time.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman from the District of Columbia for yielding me the time, and also for her leadership in bringing H.R. 51, the New Columbia Admissions Act, to the floor. I am proud to rise as a cosponsor of the legislation, and as an advocate for self-determination for the people of the District.

Mr. Chairman, I serve as a member of the D.C. Appropriations Subcommittee, and I have seen firsthand both Representative NORTON's leadership and talent, but also the interest and enthusiasm among the District residents for statehood. The time has come for us to grant those people the right to determine their future and to address the challenges of the future as the 51st State of the Union.

□ 1930

Mr. Chairman, earlier I was dismayed to hear one of our colleagues say that the District of Columbia did not have the resources to become a State. I was dismayed, and I respectfully disagree. These citizens and their local government pay the fourth highest per capita tax rate in the Nation and are responsible for over $3 billion in revenue to the U.S. Treasury, speaking from a financial standpoint.

From a governmental standpoint, the District has a representative form of government. The District has the resources to support a State government, and most importantly, Mr. Chairman,

the people of the District of Columbia are its greatest resource in reaching statehood.

They want that freedom. Let us give them the respect they deserve.

I commend the gentlewoman from the District of Columbia [Ms. NORTON] for her leadership and her tireless work on behalf of statehood for the District.

I hope our colleagues will support her and the residents of the District by voting yes on H.R. 51.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, at this time I certainly want to commend my colleague, the gentlewoman from the District of Columbia, for the magnificent representation that she affords her constituents, the way that she has brought this issue to the floor so that it could be debated before the American people and, in fact, before the world.

Let me say, Mr. Chairman, that I found the remarks of the gentleman from Vermont very interesting. I thought that they knocked down a lot of the statements that had been made on the other side. The only thing I have a concern is that I certainly hope it does not begin a movement for a constitutional amendment to remove Vermont from the Union based on population.

Let me say that we have heard all of the excuses and all of the obstacles that have prevented the residents of the District of Columbia from achieving their goal of first-class citizenship presented again here today.

As the leader of the free world, we have to do better by 600,000 U.S. citizens living in the District of Columbia. Disenfranchisement is not in keeping with a representative democracy.

The District's locally generated revenues exceed those of 20 other States, but taxation without representation at the present time is alive and well in our Nation's Capital.

The District has a viable economy that enables it to meet and sustain the full force of self-government for the past 30 years. Federal payments have amounted to less than 20 percent of the city's budget.

What further commitment to democracy does the Congress require of the District?

My colleagues, since 1871, Congress has wrestled with the issue of status for the District of Columbia. As with all disenfranchised people, there comes a time when the chains of oppression must be broken. The residents of the District of Columbia are U.S. citizens who are entitled to enjoy the fruits of full participation in democracy. The residents of the District pay Federal taxes, and they pay local taxes. They vote in Presidential elections. They elect a mayor and a council and they fight and die for our country under the Commander in Chief in times of war.

My colleagues, there is nothing in the Constitution that bars a State from existing within the District. We have the authority from the Constitution to create any democratic form of government that we so choose so long as a Federal enclave remains.

The overall objective of statehood for the District is, as stated by the President, to control one's destiny. As a Delegate from the Virgin Islands, I can certainly empathize. To be denied a voting Representative in the body that rules on one's affairs is, to the very least, a handicap.

I urge my colleagues tomorrow on this issue to vote a resounding "yes" for H.R. 51.

Mr. BLILEY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, proponents of statehood knew that they would lose hands-down if they did not maintain some sort of Federal control on the height of buildings here in Washington, DC, in this area in the Nation's Capital. Thus, we have section 205 of this bill which creates a new mechanism to regulate building height in which the Federal Government would take an easement over the entire State of New Columbia.

There are at least three flaws with the scenic easement proposal each of which are, in my judgment, fatal. That these flaws exist is not just my opinion, but the opinion of Prof. Richard Epstein, who is regarded as one of the nation's premier authorities on takings law.

First, the scenic easement attempts to accomplish indirectly what everyone agrees Congress cannot accomplish directly, namely, to deprive the State of New Columbia of the sovereign power to regulate building heights. If the Federal Government cannot do this directly by passing a statute, then I fail to see how it can do so by acquiring a property right. Either way, the sovereign power of the new State is intentionally impaired, again, not entering under equal footing, which is what every State must enter the Union, on equal footing.

Even if this proposal did pass constitutional muster, however, its cost to the Federal Government could be staggering. Section 205 delegates to the Secretary of the Interior the power to develop procedures for determining the extent to which private landowners would be compensated for the scenic easement that is being taken by the Federal Government.

Our committee received testimony that private owners would be entitled to no compensation, but it is hard to see how a property right can be of value to the Federal Government, but be of no value to owners from which it is taken. The argument that the Federal Government has always prohibited high buildings will help, because everyone understands that statehood changes the rules of the game.

In fact, by giving the Secretary the power to compensate landowners, the bill effectively abandons the no compensation theory. Can anyone seriously doubt that the right to vertical development in the District would be a very valuable commodity indeed, a very valuable right?

But supposing that the easement is constitutional and that the Secretary, somehow, finds that no compensation is warranted, H.R. 51 would set a precedent that would allow the Federal Government to take property rights in cities like San Francisco or Seattle without compensating private owners. I would think that any Member who is concerned at all about the encroachment of Federal power on their States and localities would want to do everything they could to avoid endorsing such a precedent for such vastly expanded Federal power.

Mr. Chairman, the horrible implications for the Constitution, the Federal Treasury, and for State and local rights of section 205 should be sufficient for any Member to vote "no" on H.R. 51.

Again, statehood does not work; statehood is not fair; this bill does not cut it.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Chairman, today I rise to proudly voice my support for H.R. 51, the New Columbia Admission Act.

Since 1800, the residents of Washington, DC, have been the only taxpaying U.S. citizens denied equal representation in Congress. Denying the residents of the District of Columbia to send representatives to Congress who can vote on taxes or decide questions of war and peace while at the same time expecting them to shoulder the burdens of citizenship—including the obligation to pay taxes and to fight and die for their country—is wrong.

Many statehood opponents argue that the voteless status of the District descends directly from the intent of the Framers of the Constitution. Unfortunately, there are a number of things for which the Framers of our Constitution did not provide. Such as, African-Americans having citizenship in this country, let alone the right to vote and certainly did not provide for me, a 30-year-old African-American and other African-Americans ever being a Member of Congress.

It is hypocritical to call for the spread of democracy throughout the world, yet refuse to extend it to the citizens at home of the District of Columbia. It is a question of fairness and equal protection under the Constitution. There is no Member of this body who can truthfully provide a legitimate argument to deny statehood to the District of Columbia, not one.

Initially, many of my colleagues put forth the argument that the District did not have enough residents and it was too small. Well, the fact of the matter is, the Constitution does not provide that the size of a territory is a criterion for statehood. The District of Columbia has more residents than three States, Alaska, Wyoming, and Vermont. Those States combined have nine Representatives in Congress. While the District of Columbia has only one nonvoting Member, that is unfair, unequal, and unconscionable, to say the least.

I charge each Member to look to the instrument which we all hold so dear and one which we frequently refer to and see if there's any language that would deny the District of Columbia statehood. Furthermore, no constitutional amendment is necessary to enact this legislation. History provides that only the approval of Congress and the signature of the President is necessary. Our President has had the courage to support this legislation and now it is incumbent upon us to support this extremely important legislation as well. I urge you to vote "yes" on H.R. 51, the New Columbia Admission Act.

The citizens of the District of Columbia are not on trial tonight. The conscience of this Congress is on trial and its interpretation, including fair play and substantial justice.

□ 1940

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I rise in strong support of H.R. 51. Is it not ironic that the citizens who live closest to the capital and whose lives are most directly affected by what occurs in this building have no voting representation here.

Mr. Chairman, the cornerstone of the principles of representative democracy is to not only participate in democratic elections in order to select representatives but to have this representation matter. When we elect representatives, these representatives have the capacity to represent, to consider, to weigh, to make a decision over legislation which affects them.

Mr. Chairman, this is what Congress is charged with today, and this is what the people of the District seek: full representation and participation in this body as well as the other.

I urge Members of this body to acknowledge and respect the overwhelming desire of the people of the District of Columbia to participate in the Nation's affairs in the same way their neighbors do, their fellow U.S. citizens, and indeed the desires of all the territories far beyond this continent's shores should also be considered when forms of self-government are being discussed and analyzed.

Mr. Chairman, it is unfortunate that many arguments against the District of Columbia statehood focus on financial arrangements and Federal benefits because if so-called self-sufficiency were the real issue, we should apply this standard to the entire country and determine which States should have their representation limited, modified, or altered based on their financial condition, based on their ability to pay.

Mr. Chairman, it is demeaning of U.S. citizenship nearest to this building, for the residents of the District, that is at stake, that is the essence of this legislation; not financial relationships, not the size of your wallet, but it is the heart of our citizenship that is under discussion. The Congress must help resolve the question of citizenship in its remaining territories, and I believe it is Congress' responsibility to guarantee this process for the District of Columbia now and grant the District of Columbia full citizenship and participation in national affairs through the State of New Columbia. How can we be a democracy if we do not allow all citizens of the United States, all people under the sovereignty of that flag, to practice the inalienable right to self-determination.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, we have heard a great deal over the past couple of hours about this issue of taxation without representation, and there are many local officials here who have been telling residents of the District of Columbia that we are going to see lower taxes if statehood is brought about. And, Mr. Chairman, I respond by asking do these people know how they intend to keep their promise? Quite frankly, they insist that the people who live here will have lower taxes because they will tax people who do not live here and who will not be represented in the State legislation of New Columbia.

Mr. Chairman, the point has been made that citizens in the District pay federal taxes but that citizens in other territories do not. Do citizens in the other territories cast any electoral votes for President? No, they do not. Does the right to cast those electoral votes provide some representation in the federal government? Yes, of course it does.

We are all aware that the House has a Committee on the District of Columbia and a subcommittee in the Senate which has the responsibility for District matters. When this very bill was reported out of the District of Columbia Subcommittee, do you know who chaired that subcommittee mark-up, who voted, and who voted the proxies of other members? The Delegate from the District of Columbia.

So the proponents must concede that the District does have representation in its national government. The question is whether the District is entitled to the same representation as are the 50 states, and then, how that representation can be achieved through constitutional means.

The issue immediately before us is a bill which seeks to vault over three constitutional impediments through simple legislation. We are not voting on a "principle" or a "concept" about representation. We are voting on a bill which has been before the Congress for 10 years.

If you truly want to grant full representation in the House and give this city with a population of less than 600,000 people two U.S. Senators, let's defeat this awful bill now and let the advocates get to work on building a consensus method of achieving it.

The CHAIRMAN. The Chair wishes to advise Members controlling the debate time that the gentlewoman from the District of Columbia [Ms. NORTON] has 24½ minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 25 minutes remaining.

Ms. NORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 51, the D.C. Statehood bill.

The people of Washington, D.C. are no different than the people from any other State, yet, for purposes of citizenship, they are treated differently.

They must bear the burdens of citizenship, but they do not fully enjoy the benefits of citizenship.

Like all other citizens, they fight and die on foreign soil, in defense of this Nation. They pay Federal and local taxes to support the District and U.S. governments. And, they are subject to the laws which govern us.

Unlike all other citizens, however, the people of Washington, D.C. cannot vote for Representatives in the House nor Senators in the Senate. They are different. They are denied the most basic right of this country.

Mr. Chairman, I would ask Members to consider how they would feel and what they would do if the citizens from their districts were in the position of the citizens from Washington, D.C. Such could very well have been the case.

When we transcend the muddy waters of history, we are reminded that generous offers came from all the original States to have the seat of government located on their land.

Indeed, for a 10-year period, from 1790 to 1800, the seat of Government was temporarily located in the city I represent, Philadelphia, PA.

If land from Maryland and Virginia had not been accepted by the founding fathers as the permanent seat of Government, citizens who today live on Market or Walnut Street in Philadelphia would be up in that gallery.

If our first President, George Washington, had not surveyed the property situated on the Potomac River, the citizens of Richmond, VA, well represented by Mr. BLILEY, could be up in that gallery today.

Instead, because of historical coincidence and Government oversight, the people of Washington, DC are forced to assemble up there and appeal to the Members of Congress for rights that all others take for granted.

Dr. Martin Luther King, Jr., on one occasion reminded us that, "injustice anywhere is a threat to justice everywhere."

If we allow the injustice of second-class citizenship to continue in the Nation's Capital, we imperil the very democracy many have given much for.

Some who have all their rights and are complete citizens will suggest to the Members of this House that the Constitution of the United States denies D.C. residents those same rights.

It is paradoxical to argue that the very document that gives us rights, somehow takes rights away from others. The Constitution is not exclusive. It is inclusive. D.C. statehood fits within its principles.

There were dark days in this Nation's history when African-Americans were considered less than whole citizens. We corrected that. Women were not equal. We fixed that.

Each time the Constitution was expanded to include those previously left out. It is a living, breathing document. It tolerates change and rejects clinging to the past when fundamental rights are at stake. Some who have full citizenship rights will say, "give the District back to Maryland." Again, the Constitution reflects wisdom.

Returning the District to Maryland, or retrocession as it is called, can not be accomplished, according to article 4 of the Constitution, without the consent of Maryland, and Maryland will not consent.

Some who are complete citizens will say, "The District is too small to be a State." The genius of the Constitution, again, is instructive. Small States are afforded the same rights as big States.

Washington, DC is larger than three of the current small States—Alaska, Wyoming, and Vermont—and when Alaska was admitted, its population was only ⅓ the size of the District of Columbia's population.

Some, whose rights are fully protected by the Constitution, will argue that the 23d amendment somehow stands in the way of D.C. statehood. That argument has been soundly dismissed by a parade of constitutional scholars.

Mr. Chairman, I urge my colleagues to rebuff phobia and embrace faith. D.C. statehood will not destroy this Nation, it will help to rebuild it. As full citizens, District residents will display pride and honor.

The people of Washington, DC. now pay more in Federal taxes, per person, than all but two States. They feed the Federal Treasury in excess of a billion dollars a year.

Young men and women from Washington, DC have been present with our forces in Vietnam, the Persian Gulf, Somalia, and off the shores of Haiti.

In fact, whenever we send troops to protect democracy around the world, the District of Columbia is represented, and, very often, disproportionately.

D.C. statehood does not mean the end of the District of Columbia. The new, smaller enclave will continue to serve the needs of the Federal Government. The Constitution permits a smaller Capital for this Nation.

The people of Washington, DC, unlike the narrow majority in Puerto Rico, want statehood status. And, most Americans, Democrats and Republicans, want D.C. citizens to be treated the same as anyone else.

Mr. Chairman, a noted Justice of the U.S. Supreme Court once warned us, "Thou shalt not ration justice." If we fail to pass this bill, we will maintain a system of partial rights for some.

Justice should not be for some and not for others. The Constitution does not permit that. The word justice does not mean "just us" in the 50 States. Justice means equity, fairness, right, truth.

Justice demands that we pass this bill. The Constitution will endure nothing less. Mr. Chairman, but for the grace of God and an aberration of history, you or I or any of us could be in that gallery today.

□ 1950

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I rise today as a strong supporter of H.R. 51, the New Columbia Admissions Act. I want to commend my colleague, the distinguished gentlewoman from the District of Columbia for her unwavering dedication and steadfastness on this issue.

As a cosponsor of this legislation, I am proud that we have arrived at this historic moment. There is perhaps no single issue involving democratic rights facing this Nation today which is more important than statehood for the District of Columbia.

Of the 115 nations with elected national legislatures, only the United States and South Africa deny representation in the legislature to citizens of their Capital City.

Since 1800, residents of the District have been denied their proper representation in Congress. Mr. Chairman, 193 years later, the residents of the District of Columbia are still not free.

How can we champion democracy abroad, when we deny the most basic of rights to the 600,000 citizens of our Nation's Capital.

The residents of the District are only seeking what each and every one of us already have and maybe sometimes take for granted—the right to self-determination.

Mr. Chairman, I urge my colleagues to support equality in our Nation's Capital, support self-determination in our Nation's Capital. Support H.R. 51, the New Columbia Admissions Act.

Mr. BLILEY. Mr. Chairman, I am going to close for this side for this evening, with the understanding that 15 minutes will be reserved for tomorrow, as was explained by the Majority Leader tonight.

The SPEAKER pro tempore (Mr. MFUME). So then the gentleman is yielding back his time?

Mr. BLILEY. No, Mr. Chairman, I am going to use some of this time, but do not let me go beyond.

The SPEAKER pro tempore. The Chair will advise the gentleman when he gets to 15 minutes remaining in order that we might be able to stay in compliance with the agreement.

Mr. BLILEY. Mr. Chairman, H.R. 51 has been praised as a great exercise in democracy. But it is a blow to democracy. The rights of 250 million Americans to participate in the process of amending their constitution is being denied. Congress is usurping power it does not have. The power to change the status of the Nation's Capital is reserved to the people in their right to amend their constitution.

The blow to democracy is felt in the District as well. Prior to the introduction of statehood legislation, the citizens drafted and ratified their own constitution to live under as citizens of the new State. But the right to determine their own constitution has been taken away from them under H.R. 51.

On October 13, in a lengthy statement on the House floor, the Delegate from the District of Columbia responded to public statements by the Washington Post that New Columbia would not be economically independent. Despite her eloquent challenge to that conclusion, the city's budget crisis and the continuing decline in population speak louder than her words.

In her October 13 Special Order, the Delegate from the District also stated that, "* * * half of us would drop off the statehood bandwagon * * *" if New Columbia could exceed the current building height limitations. The District Delegate claims to have resolved this problem by having the Federal Government take a property interest in every parcel of land in New Columbia the day before its admission. The Delegate further claims this taking can be done at no cost because such property is essentially worthless. I have grave doubts that a court would find that such property had no value. Since there is no hold harmless provision in this legislation, the United States could be on the hook for millions, if

not billions, of dollars, of compensation to New Columbia's property owners.

Even more importantly, I believe that this scenic easement amounts to no less than an unconstitutional condition on the admission of New Columbia and that it would be removed from the law by the courts. Ultimately, there would be no restrictions on building heights and there would be no legal method whereby Congress could impose one. Moreover, the taking provision sets a dangerous precedent which would set off lawsuits which could rage well into the 21st century. If the Federal Government can take property in New Columbia without compensation, it may take it elsewhere. States as well as private citizens should be alarmed at this sneak attack on property rights.

On the question of a taxpayer subsidy to New Columbia, the legislation continues to insist on special treatment. This bill authorizes a wholly new and unique Payment-in-Lieu-of-Taxes to New Columbia. Not only does this new PILOT pay New Columbia for Federal land not even in the State; but, it does so to the exclusion of any other State-including Virginia and Maryland which are just as "nearby" Washington, DC as is New Columbia. The District Delegate says that the Federal payment has been abolished—that is not true, it has simply changed its name. A separate and special payment to New Columbia is provided for in this bill. I must continue to object to such special treatment for New Columbia.

For several years, I have pointed out the flaws in this bill, but none of them compare with the outrageous manner in which the boundaries were redrawn just earlier this month. If you did not hear about this in my previous remarks, you had better come look at the map of what is left of Washington, DC. New Columbia has hijacked two-thirds of the Senate Office Buildings, the O'Neill House Office Building, the Capitol Power Plant, the New Executive Office Building, five cabinet level departments and the FBI building. The boundary of New Columbia literally runs through the Department of Labor. New Columbia has stolen the national treasures of Fords Theater, the National Portrait Gallery, and the National Museum of American Art. New Columbia has kidnapped tens of thousands of Federal employees. This is not an accident. In offering the amendment in Committee, the Delegate stated that under the previous language, there was "more area in the Federal enclave than is intended or necessary." Do not be fooled by the simplistic explanation that Washington, DC has merely been shrunk in size.

IT HAS BEEN DESTROYED

The boundaries in this bill make a mockery of what our nation's capital is meant to be. We have just returned the Statue of Freedom to her place on top of this Capitol building. If H.R. 51 passes, she will have her back turned to the Nation's capital and she will be overlooking only one State rather than the symbolic place where all 50 have come together.

Reducing the Nation's Capital to 3,000 acres, one-tenth the size of Dulles International Airport, is not merely inconvenient, it is unconstitutional.

Mr. Chairman, for 30 years, the Justice Department, through Democratic and Republican administrations alike, has consistently maintained that the status of the Nation's Capital can only be changed through a constitutional amendment. Statehood advocates have not been able to refute the works of Robert Kennedy, Patricia Wald, and all of the others.

I oppose this legislation for its unconstitutional method of admitting part of the Nation's Capital as a State and for its failure to create a State of equal stature and sovereignty with the other States. I urge its defeat.

□ 2000

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] has yielded back all but 15 minutes of his time; is that correct?

Mr. BLILEY. Correct.

The CHAIRMAN. The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON] and advises her that she has 19½ minutes remaining.

Ms. NORTON. Mr. Chairman, I yield myself all but 15 minutes which I would reserve until tomorrow.

The CHAIRMAN. The gentlewoman is recognized for 4½ minutes.

Ms. NORTON. Mr. Chairman, the ranking member continues, like a broken record, to protest that the boundaries would be irrational when he knows full well that a bipartisan amendment in committee calls for the drawing of the boundaries by a special study after passage.

Moreover, Mr. Chairman, the Constitution is raised time and time again for this constitutional scholar to hear.

It is interesting to note that the opposition invokes the power of the Constitution to strike down any and every law of the District of Columbia to usurp its budget, to rearrange its life in any way it sees fit, but believes that the Congress cannot reduce the size of the District of Columbia, can do everything to the residents but not reduce the size of the District of Columbia.

I commend the gentleman from Virginia [Mr. BLILEY] to the words of the Constitution, and the plain meaning of the document reserves exclusive legislation in all cases whatsoever, and every constitutional scholar which has looked at this language has indicated that of course it would not take a constitutional amendment for the Congress, for example, to move the District of Columbia, if there were more, to someplace else, to reduce its size, as it has already done.

Moreover, beware, Mr. Speaker, that the Members on the other side of the aisle who say they want to find some democracy for the District of Columbia have, each and every one of them, opposed increasing home rule for the District of Columbia. I could not get the Member, when I questioned him in a colloquy, to say that he would support giving to the District of Columbia the right to have final say over his own budget, and each and every one of them have voted against this in committee before, and they have not, and they have not indicated, and they have always voted against giving the District of Columbia the power to have final say over its own laws.

These Members not only opposed statehood, Mr. Chairman, they oppose democracy in the District of Columbia.

Mr. Chairman, I have had to sit here and hear these Members who come from States that pay less taxes per capita than we do, assert that we could not support ourselves. The chart, the chart here, indicates precisely who we are. Fifty-one point nine percent of the residents over 25 years of age have college and higher education. Twenty-four thousand dollars and some is the 1991 per capita. That is 28 percent higher than the national average. The 1991 average of wages and salaries of employed persons in the District was 10,000 and some greater than the national average. Sixty-six point three percent of District residents aged 16 years or over are in the labor force. I defy the opposition to show me better statistics than that in their own districts.

I say to my colleagues, "I have heard all you have had to say, my friends, and so has this Chamber in years gone by."

When Alaska sought to come into the Union, Senator Bush said that he opposed it because Alaska citizens would be empowered to elect two Senators whose votes would well decide an issue of crucial importance to the future of the United States. We have heard it all, my colleagues. When Colorado came into the Union, it was opposed by a Senator from California who said it was a weak sister that is proposed to be added to the American Union. They do not have a very large population. Let us be light in our burdens laid on them, and let us pay all of their expenses and give them a good sendoff. When Alaska came into the Union, Senator Russell of Georgia said he was opposed to statehood for Alaska for the simple reason that in his own conscience he did not believe that that territory was prepared economically for statehood or that it can support a State government. When Arizona sought admission, Mr. Burnham of New Hampshire spoke for 3 days against

statehood criticizing the wide usage of the Spanish language in those States.

Oh, we have heard it in one form or fashion, and we have heard it, as well, this evening in this Chamber. But I believe that the good people of the United States do not support the present condition of the residents of the District of Columbia. I believe they would want us to vote as I am asking my colleagues to vote this evening, to make the District of Columbia the 51st State of the United States of America.

Mr. MFUME. Mr. Chairman, I rise today in support of the bill H.R. 51 and urge my colleagues to vote in favor of it.

This legislation gives the people of the District of Columbia the rights that they deserve as American citizens. These people are not asking for any special privileges. Rather they are asking for the opportunity to enjoy the rights that many Americans today take for granted; the right to congressional representation and the right to live under the laws that the majority of the people have enacted without outside interference.

The residents of the District of Columbia are entitled to the same standards of citizenship enjoyed by every other American. More than 100 countries worldwide afford residents of their capital cities voting representation in the national legislature; we are the only Nation in the world with a representative, democratic Constitution that denies the basic right to its citizens.

The abuse of taxation without representation sparked the revolution that created this Nation. Now, 200 years later, the citizens of the District of Columbia are still being subjected to this same abuse. The District pays taxes to the Federal Government at the fourth highest per capita rate in the country, providing over $3 billion annually to the Treasury. Yet DC residents have absolutely no say in how these funds are used.

As we all know, the area that now comprises the District of Columbia was originally part of Maryland; Maryland ceded the land so that the Nation could have a capital in 1801.

As a lifelong resident of Maryland, and as a Member of the Maryland delegation to Congress for the last 7 years, I have long been an observer of District politics. While I have not always agreed with the positions endorsed by the District's City Council or by the electorate, I have been impressed nonetheless with the manner in which the people of the District have conducted themselves.

Perhaps more than any other group in the Nation, the people of the District of Columbia have the opportunity to stay informed of current events and of the issues that are important to this Nation and to the world. It is also true that the majority of the people of the District are reminded daily of the importance of the Constitution, the Bill of Rights, and of the political history that has helped to make this Nation great.

As a Member of the Maryland delegation and as a Representative from Baltimore, which is linked to the District by more than proximity, I would like to make it clear to my colleagues that I have no fears or trepidations about what the people of the District will do if they are granted statehood.

Rather, as I said earlier, I support their request for the right to congressional representation and to direct their own policies and budget. The bill before us, H.R. 51, is fair to all involved. The bill contains language that ensures that the State of New Columbia will enter the union on equal footing with other States and will be afforded equal treatment as well. The payment in lieu of taxes provisions in this bill are no different than those already available to other States, as well as local jurisdictions.

The issue at hand, really, is whether or not we are going to allow political fears and paranoia of a few Members to stand in the way of the civil rights of approximately 600,000 American citizens.

The population of the District of Columbia exceeds that of three other States in the Union; the people pay higher Federal taxes per capita than 48 of the 50 States. The District has a productive economy which will enable it to meet the costs of full self government. Citizens of the District of Columbia serve in the armed services in proportionally sizable amounts, and all of the constitutional requirements of statehood are currently being met.

Congress clearly has the authority to admit States through simple legislation, as it has done with 37 other States, and to enact a bill reducing the size of the Federal district over which the Constitution gives Congress control.

Admitting the State of New Columbia is the only means available to us to fully right the terrible wrong this Nation has perpetrated against 600,000 of its citizens. Contrary to what statehood opponents claim, retrocession of part of the District of Columbia to Maryland is a wholly impracticable option. A recent survey of the Maryland legislature showed that only a tiny handful of the members of that body would support retrocession.

Mr. Chairman, colleagues, the people of the District of Columbia deserve statehood. I am confident that they will not abuse this right nor will they use it to the detriment of others. It is not fair for others to deny the people of the District their civil right because they have chosen to prejudge them in a critical manner. A vote for statehood will give the Nation's Capital full self-government, and ensure for all its citizens the democratic rights our Constitution guarantees.

Mr. Chairman, I urge my colleagues to support H.R. 51 and to support the people of the District of Columbia.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 51, the New Columbia Admission Act. I would like to commend my distinguished colleague from the District of Columbia, ELEANOR HOLMES NORTON for her efforts in bringing this legislation to the floor and addressing the critical issue of statehood for the District of Columbia.

H.R. 51 would admit into the Union as the 51st State, the territory now known as the District of Columbia under the name of New Columbia. In addition, it will provide for the election of one Member to the U.S. House of Representatives and two Members to the U.S. Senate. Under current laws governing the District of Columbia, its residents bear all of the responsibilities of citizenship including payment of taxes and military service. However, they do not share its most cherished right, full representation in Congress.

Mr. Chairman, with 600,000 residents, the population of the District of Columbia is larger than the States of Wyoming, Vermont, and three times that of Alaska. Residents of the District pay higher Federal tax than residents in all except 4 of our 50 States. Of the 115 nations in the world with elected national legislatures, the United States stands alone in denying representation to residents of its Capital. In addition, residents of the District of Columbia have served in all American wars and have ranked 5th per capita in the Persian Gulf and 4th per capita in casualties in the Vietnam war. This political inequity is inexcusable.

Opponents argue that the State of New Columbia would be at a financial disadvantage without Federal payments. However, for the past 30 years, the Federal payment has never exceeded 20 percent of the city's budget. Moreover, Washington, DC's economy enables it to meet the costs of self-government. The business services are competitive with the rest of the United States. Legal services rank higher than 41 States, and finance, insurance, and real estate rank higher than 14 States. With 20 million tourists visiting the District each year, tourism is also a great source of revenue.

Mr. Chairman, the District meets the traditional three-part congressional test for statehood—residents have expressed their desire for statehood, accepted a representative form of government and possess sufficient population and resources to support a State. Granting statehood to the District of Columbia is simply a matter of fairness. Without statehood, the residents are denied their fundamental rights as American citizens.

By fulfilling all of the obligations of citizenship, District residents should be allowed the same rights enjoyed by all other Americans. The New Columbia Admission Act would grant residents these rights and I strongly urge my colleagues to support H.R. 51.

Ms. VUCANOVICH. Mr. Chairman, I rise in opposition to H.R. 51, as reported by the Committee on the District of Columbia. Let me say at the outset that my opposition to this bill stems from the special treatment that would be accorded the State of New Columbia and its residents, rather than from any partisan desire to squelch legitimate claims for representation.

But, my colleagues, H.R. 51 is viewed from the hinterlands, beyond the beltway, as an improper way to achieve congressional representation at the expense of the Federal taxpayer. Let me tell you about my State of Nevada. The rich silver veins discovered in 1859 on the eastern flank of Mount Davidson, known as the Comstock Lode, fueled an influx of miners and prospectors into the Nevada Territory. Soon businesses followed, sprouting up to support the needs of the burgeoning population of the territory. The silver produced from the Comstock's mines was an important contribution to the young United States, then gripped in the throes of a great Civil War.

President Lincoln was seeking a second term in 1864 and reelection was by no means assured as a war-weary Nation approached the November election date. On All Hallow's Eve, October 31st, 1864 Nevada was admitted

into the Union, and in January 1865 its three electoral votes were counted in President Lincoln's favor. So, yes, one might argue Nevada was brought into the Union on behalf of a political goal—helping to assure that the Nation would stay intact under the enlightened leadership of Abraham Lincoln. We're proud of it. Our State's motto is "Battle Born."

But remember, Nevada's industries, in particular metal mining, was contributing new wealth to the Nation. Nevadans produced something the rest of the country, and indeed the world, wanted and would pay for. Like all of our 50 States, from the most urban to the most rural, Nevada has natural resources worthy of exploitation for the benefit of our country. We have a bumper sticker in Nevada that says: "If it isn't grown, it has to be mined." While Congress often seems to forget the need to foster and develop basic industries in this country, we have not forgotten this need in the West. Sure, there is a place for service sector jobs but they cannot alone carry a State or Nation that seeks to maintain the standard of living we enjoy.

Mr. Chairman, like it or not, the Federal Government is a service. It takes money from citizens, it doesn't make money for citizens. Where is the productive labor and natural resource base upon which to underpin the economy of New Columbia? There is little or none, of course, so the supporters of statehood for the District propose to continue the heavy subsidy that exists today, but call it a special Federal payment-in-lieu-of-taxes program made necessary by the large continuing presence the Federal Government would have in New Columbia.

My colleagues, I represent the congressional district with the largest percentage of Federal land ownership in the entire United States. The chart shown earlier lists Nevada as 82.77 percent federally owned. If lands held in trust for Indian tribes were included, the Federal ownership figure is about 87 percent, and my district covers 99.7 percent of Nevada. In other words, my constituents know something about living with a landowner that doesn't pay local or state taxes. Yes, we receive PILT payments each year thru the appropriations process, but it is a far cry from having lands on the county assessor's tax rolls. *Public Land Statistics 1991* reports Nevada received just over $6.7 million for the Federal lands within its borders, about 11.6 cents per acre. That same year the District of Columbia received PILT money at the rate of 48.6 cents per acre to defray lost tax revenues. Of course, the D.C. appropriations bill handed the District's government many more Federal Dollars on top of the meager PILT reimbursement, because the District is a Federal enclave.

Well, I stand here today to say that my State feels as if it is such an enclave itself. When we seek to put the land within our borders to productive use, the Federal Government always has a big role to play. And all too often this body acts to say no to grazing, mining, timber cutting, oil drilling, and other productive uses of our land. On the other hand, when the Nation needed a place to study for deep geologic disposal of nuclear waste where did it look? You got it—the Great Basin of Nevada, among the most seismically active zones in the country. Good science? Of course not. But we have only four votes out of 535 in Congress. An easy slam dunk in 1987 and again in last year's Energy Policy Act.

What am I trying to say to supporters of statehood for the District? Well, basically, it's this. Nevadans have little sympathy for the plight of a new State that would be less than 22% federally owned. We are not asking for a Federal handout on the basis of a federal taking of a scenic easement over the State of Nevada, albeit that is basically what Federal land management policies now dictate. We see no reason to grant New Columbia such special status, when we know better than any the trials of dealing with a Federal landlord. Therefore, I urge the citizens of the District of Columbia to seek an alternative route to Congressional representation. I urge a No vote tomorrow on H.R. 51.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today completely in support of the rule on H.R. 51, the New Columbia Admission Act. One need only watch this body debate the local affairs of the District of Columbia to understand the need for D.C. Statehood. I am sure that the residents of my State of Illinois would find it difficult to stand by and watch as others who have no allegiance to their community decide the laws that govern their actions and the distribution of their tax dollars. I personally find it difficult to watch deliberations on District of Columbia local affairs knowing that not only do the citizens directly affected by our actions not have a say in these discussions but that any decisions that have been made by their elected officials can be instantly reversed.

President Clinton stated it best, he said;

> The District of Columbia now has more people than 5 States, pays more taxes than 10 other States, and sent more soldiers to fight in the Persian Gulf than 20 other States. And yet every time they turn around, Congress can overturn anything they do through their elected officials.

I believe that our Founding Fathers would be appalled to know that nearly 607,000 taxpaying American citizens are without full voting representation in the United States House of Representatives and Senate.

Some who do not support Statehood for the District suggest that perhaps we can just allow residents of this city some limited representation without statehood. They argue that we should retrocede the District of Columbia to Maryland. Although that would give District residents a vote it would certainly dilute the vote of the citizens of Maryland who are used to electing their own Senators to articulate their specific concerns. In addition, the citizens of the District of Columbia like the citizens of other States, have a unique history and sense of community. It seems unnecessary to erase a community's identity when there is a better way to accomplish the goal of providing voting representation.

With all due respect to the great state of Indiana, I know for a fact that the citizens of my State would rise up if the Congress suggested that they be suddenly merged into Indiana. After all, they are strongly attached to their identity as residents of Illinois.

Mr. Chairman, on April the 15th of every year when the rest of the country is called upon to pay its Federal taxes, the residents of the District of Columbia must comply. At this time they are treated with equity. On January 15th in 1991 when this Congress decided to go to war in the Persian Gulf as on other dates when this country has declared war, the young people of this city were treated as equals. For the life of me I cannot understand why on the first Tuesday in November every year when other citizens of this country elect their representatives and Senators, residents of the District of Columbia are treated unequally.

Mr. Chairman, the request of the citizens of the District of Columbia is reasonable, fair and squarely in the democratic traditions of our Nation. We should vote yes on H.R. 51 and give these Americans their rightful representation in this government. I urge my colleagues to end the last vestiges and to do the democratic thing. Vote yes on the rule.

Mr. PORTER. Mr. Chairman, in order to ensure the independence of the new central government from undue state influence or control, the Constitution included a provision to create a district outside of any State and under the exclusive control of Congress as the seat of the new government.

The framers of the constitution did not envision a large population living in this district, however, over the last two hundred years, the district has changed dramatically. Approximately 589,000 people reside in D.C., which is more than in most congressional districts and more than in several entire States. These residents pay over $1 billion annually to the Federal treasury yet have only one nonvoting delegate to the House of Representatives. Their lack of representation should be addressed. But not by this legislation. Rather, we ought to consider retroceding the land to Maryland.

In 1990, Congress introduced the idea of rejoining D.C. with Maryland, except for a small Federal enclave made up of only major Federal buildings. Congress took this very same action in 1846 in returning the western portion of the District of Columbia to Virginia.

As Maryland's second largest city, the District would have at least one voting representative in the House and representation by the State's two Senators. The city would also benefit by participation in the Maryland educational system. At the time retrocession was proposed in 1990, the Governor of Maryland William Donald Schaeffer endorsed the proposal and agreed to assume responsibility for the District.

I am cosponsor of legislation introduced by my colleague, RALPH REGULA of Ohio, which would adopt the retrocession solution. His bill should have been allowed as a substitute for the Norton bill. Unfortunately, the Rules Committee allowed no amendments to the Norton bill and foreclosed the sensible Regula amendment.

Miss COLLINS of Michigan. Mr. Chairman, I am proud to support H.R. 51, the New Columbia Admission Act of 1993. I support statehood for the District of Columbia because I support granting full rights of citizenship to all Americans.

We are today debating basic rights of a class of Americans, a class that we have treated as separate and unequal. We are endowed by our creator with certain inalienable

rights. These rights must apply to all Americans, regardless of where we live.

No good reason has been put forth to reject this legislation. Our great nation was created on the principles of personal liberty and self-determination, and in 1993, 206 years after our nation's Constitution was ratified, it is disgraceful that this group of people do not have their full rights of citizenship.

Citizens of the District of Columbia live with the whims of a majority of legislators with whom they have no true voice. Not only are they subjected to taxation without representation, they are subjected to legislation without consultation. The United States is the only Nation in the world with a representative, democratic Constitution that denies voting representation in the nation legislature to citizens of the capital.

Meanwhile Congress retains veto power over laws passed by the District and its budget. Citizens of the District are the only Americans forced to live under this paternalistic federalism. D.C. residents are not provided the rights guaranteed all Americans in the 10th amendment, which reserves all power not granted by the Constitution to the States and, more importantly, to the people.

Let's stop treating the citizens of the District of Columbia like people who do not know what is best for them. Let's end the double standard. Let's end congressional supervision and meddling in D.C.'s affairs. Let's give the people their full rights and responsibilities as citizens of this democratic land. Let's pass H.R. 51.

Mr. BONILLA. Mr. Chairman, just a few short months ago all of us took an oath of office to uphold the Constitution. Today we have before us a bill which stands in violation of that oath. The Constitution clearly states that "no new State shall be formed or erected within the jurisdiction of another State" and the District of Columbia stands on land ceded to the Federal Government by Maryland.

Not only is this bill unconstitutional, it is unwise. Washington, D.C. is a city, not a State. Providing statehood for the District devalues the vote of each and every American outside of Washington, D.C. How can it be right for the City of Washington, D.C. to have the same number of Senators as the State of Texas. Clearly, it is not right. How can it be right for the American people to lose control of the governance of their national capital. Clearly, it is not right.

Today's debate is missing the most fundamental question—the rights of the 250 million Americans who live outside Washington, D.C. The rights of all Americans to know that their capital reflects the moral values which built this Nation. Make no mistake about it, if statehood is granted there will be no means to protect the integrity of the Nation's capital as a symbol of our democracy.

The threat posed is real, not rhetorical. The city's highest elected official has already called for legalized gambling in Washington, D.C. Who is to say that there won't be a call for legalized prostitution in the future. Does any member truly believe that the American people want to see casinos across the street from the Supreme Court, slot machines across the street from the Vietnam Memorial and brothels across the street from the White House. The American people deserve better than this and want us to stop it. But make no mistake about it. If statehood is adopted we will not be able to stop this defacement of our democratic institutions.

Today, let us remember our responsibility to safeguard the integrity of democracy's capital. The Constitution provides that the Congress shall have the power "to exercise exclusive legislation in all cases whatsoever, over such district" referring to Washington, D.C. My colleagues, join me today in upholding the Constitution and protecting the rights of the 250 million Americans outside of Washington, D.C. Vote no and reject D.C. statehood.

Ms. NORTON. Mr. Chairman, I reserve the final 15 minutes of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RUSH) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, had come to no resolution thereon.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3, CAMPAIGN FINANCE REFORM

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-402) on the resolution (H. Res. 319) providing for consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3400, GOVERNMENT REFORM AND SAVINGS ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-403) on the resolution (H. Res. 310) providing for consideration of the bill (H.R. 3400) to provide a more effective, efficient, and responsive government, which was referred to the House Calendar and ordered to be printed.

## HEALTH SECURITY ACT OF 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Ways and Means, the Committee on Education and Labor, the Committee on Armed Services, the Committee on Veterans' Affairs, the Committee on Post Office and Civil Service, the Committee on Natural Resources, the Committee on the Judiciary, the Committee on Rules, and the Committee on Government Operations and ordered to be printed:

*To the Congress of the United States:*

I am pleased to transmit today to the Congress the "Health Security Act of 1993."

This legislation holds the promise of a new era of security for every American—an era in which our Nation finally guarantees its citizens comprehensive health care benefits that can never be taken away.

Today, America boasts the world's best health care professionals, the finest medical schools and hospitals, the most advanced research, and the most sophisticated technology. No other health care system in the world exceeds ours in the level of scientific knowledge, skill, and technical resources.

And yet, the American health care system is badly broken. Its hallmarks are insecurity and dangerously rising costs.

For most Americans the fear of losing health benefits at some time has become very real. Our current health insurance system offers no protection for people who lose their jobs, move, decide to change jobs, get sick, or have a family member with an illness. One out of four Americans is expected to lose insurance coverage in the next 2 years, many never to be protected again. Altogether, more than 37 million Americans have no insurance and another 25 million have inadequate health coverage.

Rising health care costs are threatening our standard of living. The average American worker would be making $1,000 a year more today if health care accounted for the same proportion of wages and benefits as in 1975. Unless we act, health care costs will lower real wages by almost $600 per year by the end of the decade and nearly $1 in every $5 Americans spend will go to health care.

Small businesses create most of the new jobs in America and while most want to cover their employees, more and more cannot. Under the current health care system, cost pressures are forcing a growing number of small business owners to scale back or drop health insurance for their employees. Small businesses spend 40 cents of every health insurance dollar for administration—eight times as much as large companies. And only 1 in every 3 companies with fewer than 500 workers today offers its employees a choice of health plan.

Our health care system frustrates those who deliver care. Doctors and

nurses are drowning in paperwork, and hospitals are hiring administrators at 4 times the rate of health care professionals. The system places decisions that doctors should be making in the hands of distant bureaucrats. Its incentives are upside down; it focuses on treating people only after they get sick, and does not reward prevention.

Clearly, our challenges are great. This legislation is sweeping in its ambition and simple in its intent: to preserve and strengthen what is right about our health care system and fix what is wrong.

Our needs are now urgent. A Nation blessed with so much should not leave so many without health security.

This legislation draws upon history. It reflects the best ideas distilled from decades of debate and experience.

It reflects the sense of responsibility that President Franklin Roosevelt called for when he launched the Social Security program in 1933 and recommended that health care be included.

It reflects the vision of President Harry Truman, who in 1946 became the first President to introduce a plan for national health reform.

It reflects the pragmatism of President Richard Nixon, who in 1972 asked all American employers to take responsibility and contribute to their workers' health care.

And it reflects the ideas and commitment of generations of Congressional leaders who have fought to build a health care system that honors our Nation's commitments to all its citizens.

Today America stands ready for reform. For the first time, members of both parties have agreed that every American must be guaranteed health care. An opportunity has been placed before us. We must not let it pass us by.

This legislation builds on what's best about the American health care system. It maintains and strengthens America's private health care. It extends the current system of employer-based coverage that works so well for so many. It protects our cherished right to choose how we are cared for and who provides that care. It invests in improving the quality of our care.

This legislation recognizes that America cannot, and need not, adopt one model of health care reform. It allows each State to tailor health reform to its unique needs and characteristics, as long as it meets national guarantees for comprehensive benefits, affordability, and quality standards. It establishes a national framework for reform, but leaves the decisions about care where they belong—between patients and the health care professionals they trust.

Under this legislation, every citizen and legal resident will receive a Health Security Card that guarantees the comprehensive benefits package. People will be able to follow their doctor into a traditional fee-for-service plan, join a network of doctors and hospitals, or become members of a Health Maintenance Organization. Like today, almost everyone will be able to sign up for a health plan where they work. Unlike today, changes in employment or family status will not necessarily force a change in health coverage.

The self-employed and the unemployed will receive their health coverage through the regional health alliance, a group run by consumers and business leaders, that will contract with and pay health plans, provide information to help consumers choose plans, and collect premiums. The largest corporations—those employing 5,000 workers or more—will have the option of continuing to self-insure their employees or joining a regional alliance.

The legislation is financed by three sources: requiring every employer and individual to contribute to paying the cost of health care; raising excise taxes on tobacco and requiring small contributions from large corporations, which form their own health alliance; and slowing the growth in spending on Federal health care programs. Enormous efforts have been made to ensure that the financing is sound and responsible.

The Health Security Act is based upon six principles: security, simplicity, savings, quality, choice, and responsibility.

Security. First and foremost, this legislation guarantees security by providing every American and legal resident with a comprehensive package of health care benefits that can never be taken away. That package of benefits, defined by law, includes a new emphasis on preventive care and offers all Americans prescription drug benefits.

Under this legislation, insurers will no longer be able to deny anyone coverage, impose lifetime limits, or charge people based on their health status or age. The legislation also limits annual increases in health care premiums, and sets maximum amounts that families will spend out-of-pocket each year, regardless of how much or how often they receive medical care.

The legislation will preserve and strengthen Medicare, adding new coverage for prescription drugs. To meet the growing needs of older Americans and people with disabilities, a new long-term care initiative will expand coverage of home and community-based care.

The legislation also provides residents of underserved rural and urban areas with better access to quality care. It also offers incentives for health professionals to practice in these areas, builds urban-rural health care networks, and protects those doctors, hospitals, clinics, and others who care for people in underserved areas.

Simplicity. To relieve consumers, business and health professionals of the burdens of excess paperwork and bureaucracy, this legislation simplifies our health care system. It requires all health plans to adopt a standard claim form; creates a uniform, comprehensive benefits package; and standardizes billing and coding procedures.

Savings. The legislation promotes true competition in the health care marketplace. It increases the buying power of consumers and businesses by bringing them together in health alliances. Health plans will no longer succeed by trying to pick only healthy people to insure; they will have to compete on price and quality. This competition will be backed up by enforceable premium caps.

This legislation also criminalizes health fraud, imposing stiff penalties on those who cheat the system. And it takes steps to reduce "defensive medicine" and discourage frivolous medical malpractice lawsuits by requiring patients and doctors to try to settle disputes before they end up in court, and by limiting lawyers' fees.

Quality. The legislation empowers consumers and health care professionals by providing information on quality standards and treatment results. It calls for new investments in medical research, including heart disease, bone and joint disease, Alzheimer's disease, cancer, AIDS, birth defects, mental disorders, substance abuse, and nutrition. To help keep people healthy, rather than only treating them after they get sick, the legislation pays fully for a wide range of preventive services and offers new incentives to educate primary care doctors, nurses, and other family practitioners.

Choice. Through comprehensive reform, the legislation gives Americans a new level of control over their health care choices. It ensures that people can follow their doctor and his or her team into any plan they choose to join. It transfers the choice of health plan from the employer to the individual, and guarantees a choice of health plans, including at least one traditional fee-for-service plan. Doctors and health professionals may participate in multiple health plans if they wish.

Responsibility. Under this legislation, every employer and individual will be required to pay for health coverage, even if that contribution is small. It extends the current employer-based system for financing health coverage—a system that now serves 9 of every 10 Americans who now have health insurance. To ensure affordability, small businesses, low-wage employers, and low-income individuals and families will get substantial discounts.

This legislation will strengthen our economy. Our current system is so much more costly than any other system in the world, and the American people should not be asked to pay huge new taxes in order to afford health care

reform. This plan raises no new broad-based taxes, but spends our health care dollars more wisely. It levels the playing field for small businesses, making it possible for them to insure their families and employees. It eases the tremendous burden of rising health costs on big business, helping them to compete for global markets. And by bringing the explosive growth in health costs under control, it sets us in the right direction of reducing our national debt.

The legislation restores common sense to American health care. It borrows from what works today, letting us phase in change at a reasonable pace and adjust our course if needed. It builds on what works best—and makes it work for everyone. Our task now is to work together, to leave behind decades of false starts and agree on health care reform that guarantees true security. The time for action is now. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 20, 1993.*

## PERMISSION FOR INCLUSION OF EXTRANEOUS MATERIAL IN EXTENSION OF REMARKS SECTION OF THE RECORD FOR THE REMAINDER OF THE FIRST SESSION OF THE 103D CONGRESS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that for the remainder of the first session of the one hundred and third Congress all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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## THREE STEPS TO PROTECT THE DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, a November 18 memorandum attached to a letter concerning the recent so-called Penny-Kasich budget amendment, signed by the Chairman of the Joint Chiefs of Staff, Gen. John M. Shalikashvili, and the Secretary of Defense, Les Aspin, states the following:

The Department of Defense:

Must base the budget on national security requirements;

Must be able to count on a level of resources that will not be disrupted by a dramatic shift in the economy;

Should maintain readiness when the national security is in danger, despite concern over the deficit; and

Should not make ill-advised cuts that will reduce our ability to respond to challenges to that security.

To this, I say hallelujah, as this is an apparent reversal of the administration's previous position concerning the Defense budget, as set forth in a statement by Vice President AL GORE in his National Performance Review, "Defense had launched a Bottom-Up Review to meet the President's 1994–97 spending reduction strategy."

In all of this budget discussion, Congress and the Administration can get bogged down in numbers and miss sight of the purpose of our national security structure—to defend the interests of our Nation. Sure, there are budgetary constraints, but the budget should not be the driving force, and this Pentagon memorandum reflects new thinking concerning the defense of our country.

In June, President Clinton told the West Point cadets that the military had been cut as much as it should be. I agree, and I have been critical of the so-called Bottom-Up Review issued by the Pentagon concerning force structure earlier this year. This review can in no way fulfill the national security strategy of being able to successfully fight two major regional contingencies. This Bottom-Up Review is as useful to our national security as wings would be as useful to a pig. The peace-keeping efforts piled thereon further throw the national strategy out of balance.

Thus, the national defense budget must be leveled out—no more real cuts, or else we will have a truly hollow Armed Services. Our Nation, the bastion of freedom in this world, must ever be prepared to fulfill the role assigned to us in this world, and, if need be, to be successful in our national security strategy.

Thus, I suggest that we in this body take steps to protect the Defense Budget from the pressures and assaults and keep our guard up—else we will regret not doing so at some future date. It was Disraeli who once said "expect the unexpected."

Therefore, three steps should be undertaken to protect the ability of our Armed Services to provide the necessary defense.

First, the Defense Budget should be stabilized. The Defense portion of the overall budget should be treated the same as the domestic portions—the base line should include an inflation factor to keep the purchasing power the same.

Second, the integrity of the defense budget should be preserved. This must be done by providing firewalls around the defense part of the budget and not allow defense dollars to become part of the trading game.

Third, there should be an end to imposing the costs of domestic programs upon the defense budget. Defense funds are wrongfully diverted to, among other areas, the FAA, the Coast Guard, NASA, conversion, and foreign aid [Russia]. This is an improper internal erosion of the funds for our soldiers, sailors, airmen and marines—going to nondefense programs.

Therefore, our country, both the administration and the Congress, should get rid of this Bottom-Up Review plan and adequately provide funds for our national security. For my part, I will do my best to follow through with what is right and necessary for the men and women who wear the American uniforms—they are our sons and daughters, our nieces and nephews, our grandsons and granddaughters. They deserve the best we can give them. When they are needed, we expect them to perform their duties as professionals and we expect them to be successful. We should stand behind them and properly fund their efforts.

## IN DEFENSE OF THE NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I have taken this special order out this evening, and I underscore to the wonderful staff here that it is a 5-minute and not a 60-minute special order. I should first say that we have spent the last 6, 8, or 10 months, and possibly even longer than that—actually for me it goes back several years—taking time in the evening to talk to our colleagues and the American people about the North American Free-Trade Agreement. I am happy to say, as we are here on the last Saturday of the 1st session of the 103d Congress, that we are not going to be talking as much about the North American Free-Trade Agreement as we have in the past. But I want to express my appreciation to all of the wonderful people who are sitting behind me, and people who are downstairs, and the people who work in the cloakrooms, who have stuck with us through all of those.

I would like to take just a couple of minutes, Mr. Speaker, to respond to a couple of items that were raised this morning during the 1-minutes on the North American Free-Trade Agreement. There were a couple of our colleagues on the other side of the aisle who were strong opponents of the North American Free-Trade Agreement who stood here in the well and started talking about those of us who were supporting measures which we are going to be considering in the next couple of days to bring about major spending cuts, and they tried to claim that those of us who supported the North American Free-Trade Agreement in fact are not interested in how we pay for things, how we bring about the responsible effort to cover the costs that

will be imposed. And that clearly was a fallacious argument. Because those of us who were strong proponents of NAFTA did so for many reasons. But one of them is the fact that we are going to be able to see economic growth create a situation which will actually increase revenues to the Federal treasury.

Now, while some opponents of the North American Free-Trade Agreement tried to claim that there would be a tremendous tax increase in the NAFTA, they were wrong. Anyone who voted against the North American Free-Trade Agreement actually voted against a $1.5 billion tax cut. Why? Because while there were an additional $1.08 billion in customs fees, as the gentleman from Texas [Mr. PICKLE] knows, they came out of his committee, and airline fees, the tariffs, which are a tax, are going to be reduced by $2.5 billion over a 5-year period.

Mr. Speaker, those fees, as the gentleman from Texas [Mr. PICKLE] knows, are temporary, and we will actually see a net, because we have the $1 billion in those fees and $2.5 billion in tariffs or taxes that will be reduced, a net tax cut of $1.5 billion over that 5-year period.

At the same time, there are many who talked about the cost of cleaning up the border, as if the border problem had something to do with the North American Free-Trade Agreement. The problem that exists there exists there today, and it has nothing to do with the NAFTA. So there is going to be a cost in cleaning that up.

But the Congressional Budget Office provided an assessment of what we will see in increased economic growth in the United States, and they have projected that there will be an increased growth of $72.5 billion in the gross domestic product here in the United States. As such, with that increase in the GNP, we are going to see, over a 5-year period, based on the Congressional Budget Office projection, an increase in revenues to the Federal treasury of $13.59 billion. Why? Because of the expanded economic growth, which is going to be creating jobs and putting these people who may not be working today onto the tax rolls, paying taxes, which will be coming to the Federal Treasury.

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So I believe that it was very disingenuous for those who said that some of us who want to bring about meaningful spending cuts only talk about it now but do not want to be fiscally responsible as it relates to the North American Free-Trade Agreement. We all know that the NAFTA is not going to create a tremendous surge in jobs overnight. It is not going to create a situation which is going to have this great benefit immediately. But clearly, we are going to see steady economic growth as a byproduct of this job creation.

I would also like to say, Mr. Speaker, that we demonstrated, with the vote on the North American Free-Trade Agreement, 75 percent of the Republicans, 40 percent of the Democrat Members of this House joined together in a bipartisan way. I believe we Republicans showed that a program which was envisioned by Ronald Reagan, negotiated by George Bush and supported by President Clinton, we can provide bipartisan support and we can avoid gridlock on our side.

President Clinton has campaigned, talked about a number of other items which I hope very much we can put into place in a bipartisan fashion here in the House. Line item veto authority was, of course, one of his key items. Congressional reform, which I happen to be working very closely with my colleagues on. We are going to be going into our markup on that tomorrow afternoon.

Welfare reform, dealing with banking regulations, which have held up the small business expansion that is necessary, and capital gains tax reduction.

I hope very much, Mr. Speaker, that we can deal with these items in a bipartisan way.

## THE SOCIAL SECURITY ENTITLEMENT REFORM AMENDMENTS OF 1993

The SPEAKER pro tempore (Mr. RUSH). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 30 minutes.

Mr. PICKLE. Mr. Speaker, it is my belief that all Federal entitlement programs need to be re-examined in light of the promises that they are making to today's workers and the financial burden that these programs may impose on their children when they become workers. I do not feel that across-the-board spending caps are the best way to go—that path is much too arbitrary for me—but I will not pretend that I have a prescription for how to deal with each entitlement program. As a former chairman of the Social Security Subcommittee in the House, my approach is to start with what I know something about, namely social security. I strongly believe that no effort to realistically address the future burden of entitlement promises will produce meaningful results unless social security is on the table. I, therefore, have introduced legislation today to restrain the long-range cost of social security with the hope that it will start people thinking about how to alter the full spectrum of our entitlement promises.

The major provisions in this H.R. 3585, legislation would:

1. Raise the age for receipt of full social security benefits to 70, while retaining age 62 as the first age at which retirement benefits can be received. This would be phased in over 24 years, beginning in 2006;

2. Provide cost-of-living adjustments every 2 years, based on 2 years' worth of inflation, except when inflation exceeds 4 percent per year. This would be effective beginning in the year 2000;

3. Liberalize benefits for widows, widowers, and other recipients, age 80 and older. This would be phased in, beginning in the year 2000; and,

4. Lower the age for receipt of Supplemental Security Income [SSI] benefits from 65 to 62. This would be phased in over 12 years, beginning in the year 2000.

There will be those who will say that my timing is wrong, that there already is too much on the legislative table, and that we can wait until early in the next century to consider whether there even is a problem with Social Security. In 1983, in the midst of almost overwhelming political chaos and with the prospect that full Social Security checks would stop going out within a few months, we passed major amendments in the Social Security program to restore the system to a sound financial footing. In 1979 and 1980, shortly after I become Chairman of the Social Security Subcommittee, our committee began holding hearings to examine the system's problems. We were told then that we were moving too soon, that things could get better, and that we were creating a problem rather than solving one. We felt then that time was not an ally, and that those telling us that we were moving too soon were really telling me not to rock the boat. Well, I will probably be told that again, but I think it is time to face the social security dilemma once more.

So that no one misinterprets my intention, I will state again, as I have many times in the past, that I am committed to the basic principles of Social Security and to the system's preservation. However, I break with conventional wisdom in that I do not believe that preserving the current status quo a hundred percent is the way to meet those commitments.

The promises made by entitlement programs will be difficult to honor in the future.

Let me say first that I still feel good about what we did in 1983 to restore Social Security to a sound financial footing. The Social Security Amendments of 1983 were absolutely necessary. The system was in big trouble, and we made enormous changes. It was not easy or all that politically popular, but it had to be done, and for 10 years now the system has been not only financially secure but has been building up a huge surplus. And it may be that those changes will carry us for many more years. That is what many Social Security actuaries tell us anyway. We may need a reallocation to the disability fund in the near future, and we may

need to alter how we administer that program, but the actuaries project that the Social Security system overall will be solvent for more than 4 decades. Possibly until 2036.

So why am I not content? Why do I think things need to be changed?

The reason is that I do not think the Social Security skies ahead are all that clear. Admittedly, there is no emergency. Insolvency is not looming over the system as it was in 1981, in 1982, and again in 1983. In each of those years we had to take steps to keep the checks flowing. We had a need, a cause, something to push us. Today we don't, at least not one that is apparent, and the fact that we don't may be unfortunate in that it leaves us without a vehicle to make changes we need to make for the long run. The way I see it, the cost of Social Security will rise substantially beginning with the retirement of the post World War II baby-boom generation in 2008. That is only 15 years away! This rising cost, along with that of other entitlement programs, is likely to impose a large tax burden on the children of the boomers. Regardless of whatever balances the actuaries say the Social Security system will have out there, the cost of the system will have to be paid for with resources extracted from the economy. The system may appear on paper to be solvent until 2036, but it cannot stand alone and be removed from the economic hurdles that must be overcome to assure our well being. Social Security is not some independent spaceship floating freely in the economy. Its viability, like that of the Government generally, depends on the vitality of the economy.

A realistic assessment of every entitlement program is necessary.

While the public's focus of concern is now rightfully on the rising cost of health care and on how it is driving up Federal health expenditures, the fact is that Social Security is the largest form of Federal expenditure—our largest entitlement program—and Social Security cannot be ignored. Even if President Clinton, and we here in the Congress, can successfully confront the Nation's health insurance dilemma and curb the excessive spiral in health care costs, we will still be left with an enormous burden in sustaining our entitlement programs arising out of the demographic changes that will befall us within two decades. Because of their numbers, when the baby boomers become retirees they will greatly raise the cost of all the benefits promised by the multitude of entitlement programs we have put in place. Unless we openly and candidly face up to the dimension of the future promises that the entitlement programs represent, these programs will sap and erode the vitality of our economy.

At some point we must face up to this fact: that if these promises are to be kept in the fashion now contemplated under current laws, the tax burden on the children of the baby boomers—my grandchildren—will be untenable. Curbing health cost inflation will not do the job alone. It is a much bigger task. It will require a realistic re-assessment of every entitlement program, and that will not occur unless it first happens with the sacred cow of all entitlement programs: namely Social Security.

Means-testing Social Security is not an answer.

Means-testing seems to be the popular sound bite today. It's very appealing in its message that if we just limit what we pay to rich people, the problem will be solved. While I can certainly see the lure, I'm not one who favors it, at least with respect to Social Security. I believe it misses a much bigger point—that Social Security has survived and been successful because it is not means-tested. Support for the system requires that people feel they earned a fair stake in it, rich and poor alike. Means-testing would kill it. It may sound good at the moment, but it will leave a bad ring in the ears of the American public when they are told that, in order to get something they paid for, they must now show they need it.

I ask any of those who advocate a means test how they actually would do it. Are we going to march 43 million people into Government offices twice a year and ask them to divulge their financial worth to some bureaucrat? Are we going to ask them to bring in their tax returns and their bank statements? Are we going to ask them how many cars they own, what kind of gifts they made to their kids, what kind of trusts they have set up, who they received gifts from, what their jewelry is worth and so on? Is this really a practical way to deal with people who have worked and paid taxes under this system all their lives? What fragment of evidence is there that leads us to think that means testing Social Security will be acceptable with our constituents? If our retirees today cannot live with a Social Security earnings test that affects only 3 million of them, what will 43 million of them say when we tell them that all their income is going to be taken into account? And their assets too?

No, I don't think the American public is ready for means testing of their Social Security benefits.

However, future Social Security costs do need to be restrained.

I do think we need to bring down the future cost of the Social Security system.

Under current projections, the system's cost will rise from about 11.6 percent of payroll today to 15.4 percent of payroll in 2025, and then to 16.6 percent in 2035. In today's dollars, this would amount to $140 billion annually. Medicare could rise from 5 percent today to 20 percent in 2035. Medicaid will also grow as the baby boomers' need for nursing home care goes up as they age. Interest on the public debt, civil service and military retirement, veteran benefits, Supplemental Security Income, and a whole host of smaller entitlements will add to the levy. When all are considered, their toll could consume more than half of every dollar earned by our future workers—the children of the baby boomers.

Scaling back Social Security in the future is necessary but the changes should not impact current recipients.

I don't think we can change Social Security as rapidly as some would have us do. I think cutting benefits for today's retirees, which would be the only way to bring about large immediate savings, is unfair and politically untenable. And turning Social Security into a privatized system is not in the cards. I question whether it would be all that desirable in any event. But I do think that taking steps to moderately scale back the promised benefits of the next century is practical and necessary. And we cannot wait until then. We cannot wait until 2008, when the first baby boomers reach the entry point for social security to tell them that society cannot afford to pay them the benefits they were promised. People have to know what's coming; they have to be able to plan ahead. Uncertainty leads to distrust, and distrust leads to chaos. So, I believe we must start today. If we do, we can give those baby boomers 15 years notice. If we do, the change can be gradual. If we do, we can demonstrate our ability to govern for the long run. If it turns out we are wrong and have the good fortune to prosper beyond what we can reasonably expect today, some future Congress can always reverse what we do. There should be little doubt that it is easier to give people something than to take it away.

This bill is a wake up call to those wishing to preserve the system.

I have no illusions about the immediate prospects of my bill. I know it will not fare well with the advocates. They may criticize it and stomp on it simply because it reduces benefits in the long run. I see this bill as a wake up call, because I think eventually it or something like it will be acceptable with their constituencies, who are our peers. Our peers, despite the overtures that their representatives make to us, are concerned about the future of their children and grandchildren, and they do not want these enormous entitlement programs to choke off their future well being.

But, Social Security needs to be changed even if viewed in isolation from other entitlements.

While the bill I have introduced is motivated by this concern about entitlements generally, it also is directed at solving the specific long-range problems of the Social Security system.

The latest forecast, made by the Social Security trustees last April, shows that the system has an actuarial shortfall of 1.46 percent of taxable payroll over the next 75 years as a whole. In simple words, it has a shortfall equal to 10 percent of its cost. This is bigger than the Congress and the trustees have traditionally viewed as prudent. It falls outside of the bounds of what is considered to be a reasonable deviation from actuarial balance. While the trustees recently have employed a more refined test of whether the system is in a favorable or unfavorable condition, generally speaking if its projected outgo is more than 105 percent of its projected income, it is not considered to be financially sound. Because of the size of the imbalance projected in their latest report i.e., the system's costs are 110 percent of its income, the Social Security's own Board of Trustees concluded that "appropriate options to strengthen the long-range financing of these funds should be developed."

The Social Security Amendments of 1983 improved the system's financial condition, but the economy and birth rates have not kept up with expectations.

Ten years ago when we passed the Social Security Amendments of 1983, the trustees and actuaries told us that the system was in long-run balance and would be solvent until at least 2060. I believed that then—it was a fair projection—however, many things have changed, and we should face up to them. Foremost among them are changes that have taken place in the economy. At the time of enactment, and based on the performance of the economy over the preceding 30 years, average wages were assumed to grow annually by 1.5 percentage points more than prices. Wages are important to the system because the revenue to finance social security is taken from them. Price growth-inflation—is similarly important because it heavily influences the spending side of the system. Simply put, the more that wages grow faster than prices the better off Social Security will be. Today, based on experience of the 1970s and 1980s, the trustees are assuming that wages will grow by only 1.1 percentage points more than prices each year, which largely reflects the drop in productivity that has occurred over the past few decades. This change has had an adverse impact on the actuaries' projections.

Another important change adversely affecting the outlook is in the Nation's birth rate. Generally speaking, the higher the future birth rate, the more workers there will be to support the system. Although the Nation's birth rate dropped sharply after the baby boom subsided in the mid 1960s, in 1983 the actuaries were assuming that it would rise again over the following decades and eventually reach a point where the average number of births per woman would be 2.1. However, experience over the past two decades now suggests that this assumption also was too optimistic. Today, the long-range assumption is that an average women will experience 1.9 births.

Yet another important change occurred in the assumptions made about the prevalence of disability. Over the past decade, the number of people filing for and receiving social security disability benefits has substantially exceeded the projections made in 1983—to the point now where the disability fund is likely to become insolvent within a year or two. While this can be dealt with through a small reallocation of retirement taxes to disability, the higher incidence of disability over the past decade has prompted the actuaries to raise the projected future cost of disability accordingly.

These three changes and numerous other smaller ones, all taken together, have gradually altered the long-run outlook for the system since we fixed it in 1983. They present us today with a picture of potential insolvency—for the retirement and disability parts of the program combined—occurring in 2036 and an average deficit—10 percent of the cost of the system—that is too large to ignore.

This bill would eliminate the long-range deficit largely by raising the age for full benefits to 70.

The bill I am introducing would deal with the problem by raising the so-called "social security retirement age" to 70. This does not mean I expect people to wait until age 70 to receive benefits. As under current law, people would still be able to collect retirement benefits at age 62 and aged widows' and widowers' benefits at age 60. The legislation simply raises the age at which "full" benefits can be paid. In view of the improvements in life expectancy that have occurred since the program was enacted in 1935, and which are projected to continue into the future, I believe that asking people to wait a few years longer to receive full benefits is sound and reasonable policy in light of the financial burden that the continuation of current law would impose. For those who cannot do so, because of poor health, job loss, or job burn out, the program will still be there at younger ages, but only at slightly lower levels as benefits are actuarially reduced for earlier retirement. At age 62, a worker retiring in 2030 would get 60 percent of his or her full benefit, in contrast to 70 percent under current law.

One important aspect of the bill reflects my belief that people retiring in the next 10 to 12 years should not have their retirement plans disrupted, so I would not change the "retirement age" provisions of current law until 2006. Under current law, a worker reaching age 62 in 2006 would not be able to collect full benefits until age 66, and that age would prevail as the "full benefit age" for the next 12 years. In 2017, the age for full benefits is scheduled to begin rising again until it reaches age 67 for those reaching age 62 in 2022. The bill would do away with the 12-year hiatus period where the full benefit age stays at 66, and would continue the gradual increase in the age that starts in the year 2000 (under current law) until it reaches age 70. The full benefit age would reach 67 for those who become eligible in the year 2011, 68 for those becoming eligible in 2017, 69 for those becoming eligible in 2029.

Changing the basic disability benefit level goes hand in hand with raising the age for full retirement benefits.

This bill also would alter social security disability benefits. Under current law, disability benefits are awarded up to age 65. People who become disabled after that point must take retirement or survivor benefits—the underlying assumption being that they are already at a point in their lives when one might reasonably assume that retirement would have taken place. The social security program does not pay disability benefits as an indemnity simply because an impairment exists. The premise always has been that disability benefits are a replacement of earnings lost due to the onset of a disabling condition. However, when disability is alleged or occurs between the ages of 62 and 64, the assumption that the benefits are replacing earnings lost due to the disability becomes more difficult to support. Many workers, who have impairments but not severe enough to qualify for disability, leave the workforce and begin collecting social security as early retirees. Others simply retire because they have no job or they are "burnt out." Some 60 percent of retirement benefits taken each year are from people who are age 62, and people who collect at that age must take an "early-retirement" reduction. A person found disabled at age 62, on the other hand, will get full benefits, which effectively gives them a 25-percent higher benefit than the early retirees. This difference can potentially follow them for the rest of their lives.

Under current law, when the age at which full benefits reaches 67, an age-62 retiree will collect 70 percent of the full benefit, while the worker disabled at that age will collect the full amount. What this means is that the age-62 disabled worker would get 43 percent higher monthly benefits (30/70=43 percent) than the age-62 retiree. I believe this is unfair and will create an enormous incentive for early retirees to file for disability when they file for retirement even if their chances of getting it are remote.

The disability program today already is overburdened and ready to burst because of the large number of claims

being filed and the complex process through which disability decisions are reached. If the age for receipt of full benefits were raised to 70, workers retiring at age 62 would take an even larger reduction than under current law because they retired "early," whereas the disabled worker would take *no reduction at all*. The advantage in obtaining disability benefits at age 62 would be 67 percent.

Permitting this situation to occur, or even permitting the potential 43 percent differential under current law to occur, would be unfair to those early retirees who cannot meet social security's criteria for disability, and it would create an administrative monster for the Social Security Administration and the State agencies responsible for making disability decisions. The possibility that the vast majority of workers retiring before age 70 would simultaneously file for disability cannot be dismissed. Therefore, the bill I have proposed would preclude disability benefits from being awarded at age 65 or later (as is the case today) and would peg the basic level of disability benefits to that which would be payable to a worker retiring at age 65. What this means is that, as the age for full benefits rises above 65, the basic level of disability benefits would decline as a percent of full benefits. Eventually, when the age for full benefits reaches 70, disabled workers would receive 71 percent of the full benefit amount, the same amount a worker who elects retirement benefits at age 65 would receive. This will result in a maximum difference in benefits between disabled workers and age-62 retirees of only 18 percent, which would be much smaller than the 25-percent difference that occurs today and the 43-percent difference that would occur in the future under current law.

To offset some of the adverse impact that this change would have on younger disabled workers, whose earnings potential might have been cut short by their disability, the bill would eliminate the provision enacted in 1980 that reduces the number of low years of earnings that a disabled worker under age 47 can drop. What this means is that all disabled workers could get a full 5 years of low or no earnings dropped from the computation of their benefits, regardless of their age. For younger disabled workers, this means their benefits would be derived from a higher level of "average earnings" than is permitted today, which would partially or substantially offset the impact of pegging the basic disability benefit level to the reduced age-65 retirement benefit.

Moreover, the bill would not change the benefits provided to a young family of a disabled worker since in the aggregate the same maximum family benefits would be paid. The disabled worker's own benefit might be reduced, but those paid to the worker's spouse and child would be increased accordingly, leaving them in the same position as current law.

The delayed retirement credit would be frozen at the 1994/95 level.

The bill also would alter the so-called delayed retirement credit. Today, workers who delay receiving social security until after age 65 can receive an increase in their eventual benefits of as much as 4 percent a year for each year that they wait past age 65 (up to age 70). If they wait until age 70, this credit can effectively raise their eventual benefits by 20 percent. Under current law, the credit will grow gradually to 8 percent per year over the next 14 years. When the full benefit age reaches age 67 in 2027, a worker waiting until age 70 will be eligible for a delayed retirement credit of 24 percent (3 years' worth at 8 percent per year). However, because the transition to the larger credit was not coordinated with the increase in the full benefit age to 67 when these measures were drafted in 1983, the credit payable at age 70 will actually peak at 132⅔ percent for someone who attains age 70 in 2009. In effect, under current law there will be a "windfall" for some future workers that will arise because of the manner in which the larger credit is being phased in.

The bill I have proposed would implicitly phase out the credit as the age for full benefits rises to 70. At that point the scale of benefits for retirement from ages 62 to 70 would produce an actuarially fair increase for waiting until age 70 to collect, which is in fact the ultimate goal of phasing in a larger delayed retirement credit under current law. In addition, the bill would freeze the credit at 4.5 percent a year (i.e., the level scheduled to take effect in the 1994–95 period) to minimize the potential windfall effect of the uncoordinated phase in enacted in 1983.

Beginning in the year 2000, cost-of-living adjustments (COLA's) would be given on a biennial basis, except when inflation exceeds 4 percent a year.

COLA's are a vital and unique part of the social security system. However, they are also an expensive feature. In concert with raising the full benefit age, the bill would attempt to reduce future social security costs by providing COLA's on a biennial basis, rather than every year, beginning in the year 2000. The COLA provision was not designed to guarantee an annual benefit increase. The fact that we have permitted the system to do so since 1984 has caused people to lose sight of the COLA's basic purpose, which is to assure that social security benefits are not eroded over time by inflation. It also should be recognized that the COLA provision was not even enacted until 1972, some 37 years after the original Social Security Act was passed in 1935. In prior periods, benefit increases could come 5 or 6 years apart. In the 1940s, recipients went 10 years before benefits were increased (inflation of 75 percent or so was matched by a benefit increase of 77 percent in 1950). The point is that it is the amount of inflation that is most important, not the frequency of adjustment.

It is my feeling that the current policy of annual adjustments is too generous for the long run. It affords a COLA even if the inflation rate is as low as one-tenth of one percent. My bill would alter the current practice by providing COLA's every other year based on a two-year period of inflation. If, for instance, the cost-of-living rose by 3 percent a year, a COLA of 6 percent would be provided every other year. In effect, the bill does not skip or ignore inflation, it simply adjusts benefits less frequently for it. The only exception I would make is if inflation heated up to a level of more than 4 percent a year, in which case I would provide the COLA annually as is done today. In order to avoid any sudden changes in the expectation of recipients, this provision would not take effect until the year 2000. I realize that many recipients on the rolls today would be affected eventually, since they will still be recipients in the year 2000. But the delay should give them time to prepare.

The bill contains other measures to mitigate its impact on poverty-prone recipients.

I recognize that these changes could be painful prescriptions for some older people. We know that the least well-off segments of the social security population are surviving spouses, particularly widows, people age 80 and older, the never married, and to some extent, those who retire early because of job loss or partial disability. Married recipients and people who continue to work to advanced ages tend to be among the more fortunate. The bill would make a number of changes in an attempt to mitigate the impact of the retirement age and COLA changes on those groups with higher poverty rates. Two improvements would be made for surviving spouses. One would eliminate the reduction a widow or widower must take because his or her deceased spouse had retired early on social security. This reduction can be as much as 18.5 percent today. A second measure would lessen the amount of the reduction that a widow or widower must take because he or she filed for benefits early. Today, this reduction could be as much as 28.5 percent (for someone who files at age 60), and under the age-related provisions of the bill, it could be as much as 40 percent. Under this second measure, the maximum reduction an age-80 or older widow or widower would take would be scaled back and eventually limited to 10 percent. This would done over a 25-year period beginning in the year 2000.

In addition to those receiving widows' and widowers' benefits, many older social security recipients are poverty-prone singles living on their own social security benefit—they have lost their spouses but their own benefits are higher than what they would get as a survivor, or they have never married or are divorced. As a means of helping them, the bill provides a general 5 percent increase to all recipients who attain age 80.

Most important for the poverty-prone early retirees, the bill would reduce that age at which SSI "aged" benefits could be paid from 65 to 62. This would be phased in over 12 years beginning in the year 2000, with the first age of eligibility dropping by 6 months every two years (i.e., in the year 2000, SSI benefits could be paid at 64½; in 2002, they could be paid at age 64; and so on).

The bill is intended to restore confidence among the baby boomers by making promises to them.

The change contemplated under the bill are based on the premise that the tax burden on future generations cannot rise to the level that the current promises of entitlement programs would create. This bill is based on the premise that the children of the baby boomers should not have to shoulder a level of taxation that we ourselves are not willing to pay today. Thus, the changes it would make are designed with the purpose of sustaining the social security system, and restoring actuarial balance, but with the level of social security taxes currently scheduled in the law. Confidence in the future of social security and other entitlement programs can only come from making realistic promises to the baby boomers and their children.

This bill also is premised on the belief that year-to-year changes to entitlement programs through the budget process is a bad way to make policy. It is too short sighted. By definition, it ignores the long view. Piecemeal changes will only erode public confidence.

But the bill does require a bold and politically painful leap today. It says that we cannot wait until 2008 or 2010 to make changes. Waiting until then would lead to abrupt changes. It would mean pulling the rug out from under people and disrupting their lives. We have time to prepare the baby boomers, and for them to prepare themselves, if we legislate today. If we do, we can avoid having to make changes under duress or in a crisis atmosphere. If we wait until 2010, we may be caught between two age groups already pitted against one another. I believe that taking the leap proposed in this bill would show that we can govern, and not just to meet next year's deficit target, or to meet deficit targets for the next 5 years. Planning for the future means that we have to look out a generation's worth to truly understand what we need to do.

□ 2040

## PROBLEMS IN THE AMERICAN ECONOMY

The SPEAKER pro tempore (Mr. RUSH). Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, what I would like to do is yield to the gentleman from New York State [Mr. HINCHEY], and afterwards I will say a few words, and then we will participate in a dialogue.

Mr. HINCHEY. Mr. Speaker, I thank my colleague from Vermont, [Mr. SANDERS] for yielding me this time.

Mr. Speaker, I would like to take this time to discuss some problems in our economy and some of the things that we might do to address those problems in terms of needed investment.

I would like to introduce that by observing that at the turn of the last century, the Parisian born Italian economist Vilfredo Pareto, recognized in his field for the contribution he made in applying mathematics in economic theory, earned his greatest reputation, not for that contribution but for his magnum opus Mind and Society, an extraordinary work in sociology. Perhaps the most impressive lesson of that 4-volume work was his devastating delineation of the strong component of the nonrational in all our institutions.

Not only did he identify the irrational in economic institutions but in the activities of government as well. Looking at the present state of affairs, here and abroad, I think that both economists and those involved in government would agree that the situation has not changed much in the hundred years that have passed.

Professional economists tend to work strictly within the limits of their own specific scientific discipline; we, as legislators, must measure an issue by many criteria, sometimes involving several fields of science, frequently without being expert in any. We come to our job with certain preconceptions as to what Government can and should accomplish. That the preconceptions of officeholders have no necessary connection with scientific validity was demonstrated by former President Reagan on more than one occasion during his 8 years in office.

Someone has defined politics as the art of the possible, but often, to judge by the pace of results, it might be redefined as the art of making the possible impossible. Certainly there would be some justification for so characterizing the budget debate of 1993, which saw laudable goals for reinvestment whittled down to insignificance.

On November 5, in the business section of the New York Times, there was an article announcing "Market Plunge Threatens Yearlong Rally." I will quote from two paragraphs that were of particular interest to me:

> The first problem for the traders and investors in the last several weeks has been the fear of rising economic growth. Without looking at longer-term trends, traders and investors often instinctively interpret growth as a threat of rising inflation, which erodes the fixed returns in the bond market.
>
> That fear has increased with reports showing stronger growth in the third quarter and auto sales data indicating more growth in the fourth quarter.

There is nothing unusual in finding this kind of statement in a business publication. It is a description of the marketplace at work, as seen by investors and traders. Somehow or other, however, it has a disturbing quality in that it seems to imply that investors and traders are afraid of economic growth. I am referring to the words, "traders often instinctively interpret growth as a threat of rising inflation, which erodes the fixed returns in the bond market."

This is an over simplification of their position, of course, and they would say that what they are really concerned about are the dangerous side effects that can occur when economic growth becomes too rapid.

In so doing, however, they are conceding that in some circumstances, they can be adversely affected by a growing economy. And an argument can be made—and has been made—that much of recent monetary policy was designed to protect their interests at the expense of an increase in the Nation's productivity.

I respectfully suggest that it is not the welfare of the top 5 percent of the families in this country that is threatened by economic stagnation. It is the rest of us who cannot afford to buy the tax exempt bonds that pay for America's indebtedness.

According to the Congressional Budget Office, between 1977 and 1988, the poorest 10 percent of our population had a tax increase of some 20 percent while the top 10 percent had an overall decrease of 5 percent. The very wealthiest 1 percent had a decrease of nearly 20 percent. During the same period that same very wealthiest group had a 50-percent increase in income, and the top 10 percent an increase in income of about 17 percent. On the other hand, the lowest 10 percent of families had 13-percent decline in income and the second, third, fourth, fifth, sixth, seventh, and eighth deciles also had declines in income of between 2 and 8 percent.

Another study by the United Nations Development Program looking at the top 21 industrialized nations found that only Australia has a higher rate of income inequality than the United States.

That such figures do not speak well for the American economy is obvious.

It is imperative that we recognize the importance of this factor as we seek to increase the Nation's productivity. The disparity in income between those at the top and those at the bottom of the ladder is a cancer that will ultimately sap the vitality of our economic system exacerbating the social problems that are already plaguing our society.

Those of us in Government have a responsibility to the total electorate not just the top of the pyramid. The top cannot long exist without a solid base.

It is as clear today as it was in 1932 that industry itself is not in a position to pull itself up by its own bootstraps. It is still burdened by the excessive, speculative investments of the 1980's. The malaise has become deep rooted. It needs more than over-the-counter medication. Elected officials can no longer afford to ignore the growing consensus that exists among economists that a massive infusion of investment capital is needed not only to increase productivity but to restore existing facilities and upgrade the quality of our work force. As in 1932, this is a role that only Government can do in an organized and effective way.

President Clinton in his 1992 campaign identified the need for public investment, and included provisions for this in his budget proposal. Unfortunately, largely for political reasons, that part of his proposal was emasculated, although the equally laudable effort at deficit reduction was more successful.

A group of over 300 American economists in 1989 issued a statement in which they pointed out that:

> Just as business must continually reinvest in order to prosper, so must a nation. Higher productivity—the key to higher living standards—is a function of public, as well as private, investment. If America is to succeed in an increasingly competitive world, we must expand efforts to equip our children with a better education and our workers with more advanced skills. We must assure that disadvantaged children arrive at school age healthy and alert. We must prevent drug abuse and dropping out among teenagers. We must fix our bridges and expand our airports. We must accelerate the diffusion of technology to small and medium sized business.

At the beginning of 1993 it was estimated that domestic spending must be increased by a minimum of $60 billion—more than 1 percent of the gross national product that year—just to keep from widening the investment deficit further. That $60 billion increase was not presented as an optimum figure but reflected the general perception as to what was politically credible in a voter climate that had become hostile to anything that seemed to suggest higher government spending.

The governments in competitor nations have already invested more in their futures, despite their own economic problems. The United States has been investing less, setting the stage for further declines in living standards and competitiveness. For the period 1980–1989, the United States public sector, Federal State and local, invested 1.6 percent of the Nation's economic output in physical capital. Japan invested 6.3 percent and Germany 4.4. This represented a widening of the gap between ourselves and those competitors as compared with early post-war periods. Closing that gap is of crucial importance.

Investment did increase substantially during the Bush administration but failed to reach levels that had been achieved prior to the cuts that came during the Reagan years. While the fiscal year 1994 investment level will represent only a small decrease since fiscal year 1993, we can only express disappointment that there was no increase.

The administration must redress this problem by developing a more aggressive public investment program, and in a timely fashion.

Now we have finally reached a national consensus on the need for deficit reduction, and are committed to a specific deficit reduction plan. With this sea-change in the Nation's fiscal policy, there should be greater receptivity to a well conceived public investment program. This is particularly important because there is a consensus among economists that deficit reduction alone will contract, not expand, the economy, at least in the near future. The CBO estimates that eliminating the deficit over a 5- to 10-year period would slow growth by about 0.5 percent and rob the economy of 500,000 new jobs each year. Two private forecasting companies, DRI/McGraw Hill and the WEFA group, recently reached similarly bleak conclusions. The University of Michigan and the Economic Policy Institute also reached the same pessimistic conclusion. Therefore, we must go further than simply saying that this is a propitious time for undertaking a public investment program. It is imperative that we do so if we expect to bring about an early improvement in the Nation's economic growth. Moreover, I think there is agreement that Federal investment can be undertaken in a way that does not require a significant impact on the budget.

There still are those who resist the idea of the government taking on the role of shaping the direction of investment and usurping the function that they feel belongs to the private sector. The truth of the mater is that the private sector has rarely been willing to accept the risks or expend its limited resources in the kind of research and development in which the government has had the foresight to invest. Whole industries owe their existence to the willingness of the government to invest huge sums in projects that otherwise would never have got off the ground. The nuclear energy industry, with its spinoffs, is probably the most recognized if unfortunate example. The computer industry also owes an enormous debt to governmental support. Earlier the Tennessee Valley Authority and other New Deal pubic projects for roads and bridges provided the infrastructure so essential to the growth of our automobile, electrical, and rail and truck transportation industries. And today, global communications networks and satellite systems owe their existence and rapid growth to the kind of pioneering work done in space by NASA. Government programs in health, research, in oceanography, in demography and cartography, and in other areas, have been put to use by the very business community that too often likes to complain about the intrusion of the government into private sector affairs.

America's infrastructure has been neglected for a generation now, and the Competitive Policy Council's Subcouncil on the Infrastructure, in its August 1993 report, has pointed out that:

> * * * maintaining a viable infrastructure is essential for the country to retain current levels of business development and attract new business. The congested and deteriorated highways and inadequate links from truck to rail or rail to marine terminals reduce productivity and drive up the cost of goods and services. The real issue is not just fixing up potholes; it is competitiveness.

The right mix of public investment outlays can start to pump money into the economy almost immediately. Road and bridge maintenance projects, for example, could put 25,000 people to work on jobs that require a relatively low level of skills, but the multiplier effect of those jobs could be more beneficial to the economy than what might be accomplished through new construction work. Such jobs are particularly important because our less skilled workers are most vulnerable in the transition that is taking place in industry throughout the industrialized world today.

Other areas where public investment can bring long term rewards are in research and development of new processes involving high technology, where each breakthrough can spawn not one but sometimes several industries.

Possibly even more important is a substantial investment in human capital. Not only are we confronted with the task of upgrading the skills of American workers and improving their educational level so that we are more competitive on the world market, but we have the larger task of reversing such problems as youthful delinquency and crime, drug addiction, and a breakdown of normal behavioral patterns—problems that are not only graphically recorded in our movies but that those movies have in some instances contributed to. The end of World War I brought with it sweeping changes in the way society behaved, but not so sweeping as those set in motion by World War II. Perhaps the most profound change was brought about by the

entrance of women into the labor force in ever-increasing numbers. Both parents in most families now must work to support the home. Family life, as it was known at the beginning of the century, has all but disappeared. The problem is compounded by the growing prevalence of single-parent families. There is a great need for innovative governmental programs that will provide a mechanism for ensuring that tomorrow's work force is not crippled even before it reaches the age for formal education.

One proposal already put forth would assign the following outlays over a 5 year period:

1. It would assign outlays of $25 billion for highways and bridges, transit, rail, airports, water treatment facilities, environmental cleanup, and next generation infrastructure. All these are areas which have obviously direct bearing on the productivity of our economy. That America's infrastructure is badly in need of upgrading requires no great professional acumen. We are all aware of it.

2. It would assign another $15 billion annually for children's programs, a national training system, aid to poor school districts and dislocated worker training.

3. It would assign $30 billion annually for revenue sharing, payroll tax cuts, and a homebuyer tax credit.

4. It would also assign an amount equal to additional defense cuts to civilian R&D, worker adjustment, aid to communities, and market creation.

Such a program is designed to create 5.7 million job-years over the 5-year period; increase in GDP by $345 billion; increase real wages by $207 billion; and reduce the deficit by $26 billion.

There will be some who will consider such a program too modest to meet the urgency of the need; others, who will consider it too problematic in its benefits. Nevertheless it is proposals such as this that must be studied and debated in Congress, without becoming bogged down by ideological roadblocks that are so frequently erected whenever new ideas are broached.

We in Congress must be receptive to proposals that are put forth and not dismiss them summarily simply because they are new and untried or seem at first view not to accord with our own preconceptions.

For example, another proposal that impressed me was prepared for the Jerome Levy Institute by Edward V. Regan, "Investment and Economic Growth," in which the institute recommends a major maintenance renovation program with the Federal share of the costs spread over the useful life of the renovations. This would involve a 2-year, $80 billion, one-time program to provide a major upgrading of State and local roads and bridges. The effect either of the financing plans outlined in the document would have on the Federal budget would be quite modest, and the plan would create useful long-term national assets of the type that spur private sector investment.

As David and Jay Levy have written,

> In the present era of inevitably large government deficits and a widespread reluctance to borrow more than necessary, the inability to distinguish between investments and expenses leads to gross distortions of national priorities. * * * Government denies the economy needed fiscal stimulus; too much of the stimulus it does provide is consumed without creating assets of lasting value; and public infrastructure and other long term interests are neglected. One way or another, policy makers will ultimately have to recognize that investment is investment, not expense * * * a proposed system of National Accounts will separate the federal government's investment in structures and durable goods from its expenses.

This is a lesson that more and more of us are learning to understand. The fact that the deficit spending of the Reagan years saddles us with a national debt that will require a whole generation to pay off is only half of the story. The harder part of the lesson is that paying off the debt will not in itself bring us prosperity. We must have the courage to reinvest in America at the same time that we pay off that debt. That will require a partnership between business, labor, and government. Each group will have to recognize the rightful role of the others and recognize also the obligations and limits of its own role. Let me suggest that the mood of the country today makes it transparently clear that all eyes today are looking towards Washington to provide the vision, the courage, and leadership that is needed.

□ 2100

Mr. SANDERS. I thank the gentleman for his comments.

Mr. Speaker, I want to take this opportunity to congratulate the gentleman from New York [Mr. HINCHEY] for his remarks.

Mr. Speaker, the Progressive Caucus, of which Mr. HINCHEY and I are members, is working hard to develop a major jobs bill. Mr. HINCHEY is playing a leadership role in that effort.

Clearly, at a time when the standard of living of the average working American continues to decline, when our manufacturing base continues to shed jobs as companies downsize or as companies move to Mexico or Latin America or Asia for cheap labor, it is absolutely imperative that the Federal Government invest in our future—that is, our infrastructure, mass transportation, schools, libraries, affordable housing, environmental protection—and so with decent wages.

I look forward to working with Mr. HINCHEY and others in that effort.

Last year well over half of the new jobs that were created in this country were part-time, temporary jobs with limited benefits. And that cannot be allowed to be the economic future for the United States of America. That is why we need a real jobs bill that puts millions of people back to work rebuilding this country at decent wages and giving hope to people who today have lost hope.

Mr. Speaker, mostly what I want to touch upon tonight in my remarks is something that is very, very rarely touched upon on the floor of this House.

We talk about many things, but I believe that sometimes we have a tendency to run away from the most important issues, the issues that are affecting the hearts and souls and the feelings of the American people.

I think one of those issues that we do not talk about is my belief that this great country of ours is moving very rapidly in the direction of oligarchy.

Oligarchy, as you know, is a form of government in which a small number of very wealthy people exercise enormous influence over the economic and political life of a nation. And when I was in elementary school and in high school, I am sure, for millions of other Americans, what we talked about when we talked about oligarchy, what we often were referring to were the banana republics of Latin America. We were told how a handful of very, very wealthy families controlled the economic and political life of this or that country in Central America or Latin America.

Well, Mr. Speaker, it seems to me that to a large degree that is precisely what is happening in our country except it is a lot harder to see it happen in our own country than it was to see it happen in small countries around the world.

Let me just very briefly touch upon some of the trends which lead me to that conclusion and then to suggest some of the directions that I think our country might go to once again open up the economic and political life of this country so that we begin to deal with the problems facing ordinary people rather than just the wealthy and the powerful.

What is in fact going on economically in this country today? Well Mr. HINCHEY in fact touched upon some of those points. But let me just reiterate it and add something to that. Mr. Speaker, 20 years ago the United States of America led the world in terms of the wages and benefits that we provided our workers. We were No. 1. That is what we were. And throughout all of my life, what I had heard and everyone else heard was that the United States was leader of the world in terms of the standard of living of its people.

Well, very tragically, very sadly, that is no longer the case. Today, in fact, the United States finds itself in terms of wages and benefits for its average workers in 13th place behind a number of other countries in Western

Europe and in Scandinavia. The gap between those countries and the United States is growing wider.

Mr. Speaker, you will have noticed recently that automobile companies in Germany are moving toward the United States, are coming into some of our States. Why are they coming here? Well, the answer is obvious: They are coming to the United States of America for cheap labor.

□ 2110

I think that many people who hear that shake their heads in disbelief. They say, "I can't believe it."

Companies from other countries are coming into the United States for the same reason that American companies are going to Mexico, for cheap labor. In my own State of Vermont we have highly-skilled intelligent hard-working people who work for $7, $8, $9 an hour without benefits.

Do you know why? You cannot get those workers in Europe or Scandinavia for those wages. That is why many companies are moving to the United States of America.

That is a disgrace. Something has happened in this country. We should be looking at the roles of the Democratic and Republican Parties and the people who own this country to explain why we are now in 13th place, when we used to be in first place.

And what about benefits, not just wages? How about health care? As I think most Americans understand, the United States today, along with South Africa, remains the only industrialized nation on Earth that does not have a national health care program which guarantees health care to all our people, that sees health care as a right of citizenship for all people, rather than just a privilege for the wealthy.

So when we compare ourselves to our European friends, our Scandinavian friends, they shake their heads literally in disbelief to understand that in the United States we have 37 million with no health insurance, 50 million Americans who are under-insured, that people die because they do not have the money to go into a doctor's office or a hospital. People look at this country from Europe, from Scandinavia, and they wonder what in God's name is going on in this country.

What about paid vacation days? We do not talk about this too often. How many of the viewers know that the United States today, compared to other major industrialized nations, has fewer paid vacation days for its workers than any other country?

Talk to German workers. They have 25 to 30 days of paid vacation. We, if my memory is correct, average about 10 days, and in fact, as the standard of living for the average American worker declines, our working people are working longer and longer hours. It is not uncommon in my State, and I believe in the other states, to find workers working 50, 60, 70 hours a week at one job, two jobs, three jobs, in order to bring home the bacon to keep their families going. We are working longer hours for lower wages. That is what is going on in this country.

In general, the real wages of American production workers have decline by 20 percent since 1973, and the standard of living for four out of five American families went down during the 1980's.

So the challenge of what the gentleman from New York [Mr. HINCHEY] and many of us are talking about is how do we reverse that trend so that once again this Nation is No. 1 in the world in terms of the standard of living, the wages, the benefits, the educational opportunities and health care that the people of this country receive. That must be our vision. That must be what we are fighting for, not to see us continue to decline.

On the other side, however, there is something else going on. While ordinary working people are facing more and more problems, living under more and more stress, something else is going on. That is the wealthiest people of this country are seeing an increase in their percentage of the wealth that they own, and increase in their incomes. So what is going on in fact is that the rich are getting richer, and in many instances very much richer. The middle-class is shrinking and the people down at the very bottom are in worse economic straits than at any time since the Great Depression of the 1930's.

According to a 1992 Federal Reserve study, the wealthiest 1 percent of our population now owns 37 percent of the wealth. I know people get very bored by statistics, but let me mention it once again. The richest 1 percent now own over 37 percent of our wealth, while the bottom 90 percent owns only 31 percent of the wealth. That means that the wealthiest 1 percent of our population own more wealth than the bottom 90 percent. That, my friends, is what oligarchy is all about.

So what we are looking at is a Nation in which some people have billions of dollars and their incomes are soaring, and we are also looking at a Nation in which today 5 million of our children are going hungry, close to 5 million of our senior citizens are fearful about hunger, and we are seeing a growing gap between the rich and the poor.

Now, when I grew up, that was not what America was supposed to be about. Men and women fought and died and put their lives on the line in wars in order to make us a democracy, and a democracy does not simply mean the right to vote once every 4 years for the lesser of two evils. What a democracy means also are basic economic rights. What we are seeing now more and more is the tremendous pressure that the average working person in this country is being forced to live under.

What about the future of the economy? How is it going? My friends, please do not believe the statistics that you see at the end of every month when they talk about unemployment rates going down or whatever. Those statistics are only telling half of the story.

For example, the 6.7 or 6.8 percent unemployment rate does not count many people who have given up looking for work. So the unemployment rate in fact is much higher than the official statistics indicate.

But more importantly, what those unemployment rates also ignore is the fact that millions of Americans who want to work 40 hours a week for a full-time job for decent wages, they are not finding those jobs. They are working at part-time jobs, temporary jobs.

Yes, they are employed. Yes, they are bringing in some money, but they are not bringing in, in many instances, enough money to adequately take care of their families. They want full-time jobs at decent wages with decent benefits and they most certainly do not have that.

When we talk about oligarchy and what is happening to working people and other trends in this country, it is important to point out that last year the CEO's, the chief executive officers of the major corporations in America saw a 56-percent increase in their incomes, 56 percent while the incomes of their employees remained stagnant.

I think most dramatically, and this tells you something about the mentality of the people who own America and the mentality of the people who have a lot of power in America, the study found—and this was Business Week, it was not some kind of radical magazine that brought forth this information—Business Week found out having done a survey that the CEO's, the chief executive officers of the major corporations in America, now earn 157 times what their employees earn, 157 times.

Now, we can all understand the employer, the boss, makes more money than the worker. That is not a very shocking reality, but to know that the gap is 157 to 1 is I think shocking, and I believe is unacceptable. In Japan I believe it is 32 to 1 and in other countries the ratio is far lower. That is the greatest gap in the world.

Mr. Speaker, I think that it is about time and long overdue that the working people of America, that the low-income people of America, that the senior citizens who tonight are unable to afford the prescription drugs that they need to ease their pain, that they begin to stand up and begin to fight back against a Congress, against a corporately controlled economy which is not responsive to their needs.

Now, if the people do not want to fight back, then I can only predict to

them that as bad as things are now, they will probably get worse, because the way the Congress operates, the way politics operates is everything being equal, we can listen, we can expect that the Congress and the President will pay a lot of attention to the people who have the money, who make the campaign contributions and will ignore the needs of working people and poor people.

I think one of the sad aspects of what is going on in our economy and in our political life today is that we have by far the lowest voter turnout in elections of any major country on Earth. My guess is that in the next election, for example, 50 percent of the people will not vote. In fact, it could well be 60 percent of the people who will not vote. The poor people in this country do not vote.

So when we often talk about South Africa and we say how terrible it is that black people in South Africa cannot vote, we should understand that in this country so many people, poor people and working people, have given up on the political process. They have given up. They say, "Hey, why should I waste 5 minutes and go out and vote? Doesn't matter who I vote for, Democrat or Republican. It doesn't matter. My economic problems are only going to get worse. The rich are going to get richer. Why should I bother to participate?"

That has a Catch-22 aspect about it, because if poor people and working people do not get involved and they do not vote, then this Congress and the President become even less responsive to their needs.

□ 2120

So, I think we should hope, I hope, and would very much urge people, to get involved in the political process, to stand up and fight for a progressive agenda. Let me very briefly touch on four or five ideas that I have and that many of us, or at least some of us; I do not want to go too far and say many of us, but some of us here, often in the Progressive Caucus, have as to how we might proceed to turn things around in this country.

First, the gentleman from New York [Mr. HINCHEY] has already gone into excellent detail on the issue, and that is that we need a major jobs program to rebuild America. Our infrastructure in every State of this country faces enormous problems. We should rebuild that infrastructure, and at the same time we put our people to work at decent wages. That, I think, is very important. I will not go into it at great length because the gentleman from New York [Mr. HINCHEY] has already done that.

Second, it is imperative that we protect the needs of our low-income workers. In fact, President Clinton has already made an important step forward in that direction by expanding the income tax credit, and that will help many low-income workers, but we have got to go further in that area. My hope is that the legislation which I have introduced, which would raise the minimum wage in this country to $5.50 an hour, will become law.

Since 1980, Mr. Speaker, the purchasing power of minimum wage workers has declined by 23 percent. In other words, in 1980 minimum wage workers were much better off than they are today because during the period of Reaganomics the minimum wage was not raised. So, I think what we have to say is that every person in this country who works is entitled to lift themselves out of poverty. It does not make a whole lot of sense to be working for 40 hours a week and then finding themselves more deeply in debt than before the week began. So, we have got to protect the needs of our low-income workers.

Third, Mr. Speaker, we must deal, of course boldly, with the health care crisis in this country. We hear a whole lot of talk about health care, but I think, if we are to move forward with a universal health care program protecting every man, woman and child in this country, if it is going to be comprehensive, which means that all of our health care needs are going to be taken care of, and if it is going to be cost-effective, the only program that has been introduced in the House and in the Congress that will do that is a single-payer, Canadian styled health care system. That is cost-effective because it does away with billions and billions of dollars of administrative waste which is inherent in our current system which has 1500 private insurance companies which are driving everybody crazy. They are driving the doctors crazy, they are driving patients crazy, they are driving hospital administrators crazy. The GAO last year estimated that we could save 10 percent of our health care costs by moving toward a single-payer system. That would be $90 billion. We could use that money to provide for the uninsured and the underinsured. The Canadian styled single-payer system will provide quality care to every man, woman and child in this country without enabling us to spend one penny more than the 900-plus billion dollars that we are currently spending, but in order to bring that about the people are going to have to stand up and take on the very powerful insurance companies who obviously are fighting for their own profits. We are going to have to take on the AMA. We are going to have to take on the pharmaceutical companies who are charging our people today far higher prices for the same prescription drugs that are sold in Europe, or in Canada or in Mexico.

So, we got a whole lot of people who are part of what we call the medical-industrial complex. They like the system very much because they are making billions and billions of dollars in profit off of it. But I think clearly we, as Americans, are going to have to rise up and fight for a single-payer, Canadian-style national health care system.

Fourth, and very importantly, and we are seeing it right now interestingly all over this country in terms of the strike against American Airlines; here we have working people who are standing up for their rights, and what their employer is threatening them with is, "If you stand up for your rights, you're going to be fired."

Now I did not know that is what America was about. I did not know if American workers stood up and went on strike that it was acceptable for a company to say, "Good-bye, you're fired. I can bring in all of the new employees that I want at lower wages than you're receiving today." Is that what America is really about? Have we reached that level?

Clearly, Mr. Speaker, not only do we have to pass the striker rights legislation, which in fact passed this body, but is being hung up in the Senate because of fears of a filibuster, but we have got to go further, and what we have got to do is rebuild the labor movement, the Unions in this country, and I know from many people that unions are a dirty word, but, as my colleagues know, it is a funny thing. The American Medical Association is a union of doctors fighting for their rights. The American Bar Association is a union of lawyers fighting for their rights. The American Bankers Association is a union of bankers. The American Manufacturers Association is a union of the people who are heads of the large corporations in America. If it is OK for those people to come together, as it is, to fight for their rights, why is it so terrible or bad that janitors come together, and people who come to work in factories come together, or airline attendants come together, to fight for their rights?

Right now in this country our labor law is very, very primitive. It makes it very, very hard for the people who want to form a union to, in fact, be able to do that, and I will, in fact, be introducing legislation which will radically change labor law in this country and make it far easier for workers to come together into unions to fight for their rights, and we need that because, if we do not have strong unions fighting for the working people in this country, who do we think is going to be protecting the interests of the working people in this country? I ask my colleagues, Do you think it's going to be General Electric? Do you think it's going to be General Motors? Do you think it's going to be the leadership of the two parties? I do not think so. Working people together have got to stand up and fight for their rights, and

that is what a strong trade union movement can do.

And the last point that I would make is that we must continue the effort toward serious tax reform, and the gentleman from New York [Mr. HINCHEY] also touched upon that earlier. What we know in terms of what has happened in the last 10 years:

The wealthiest people have become wealthier. Their tax burden has declined. But if we look at the combined tax burden of American workers in terms of Federal tax, State tax and local taxes, their tax burden has gone up. The rich get richer, see a decline in their tax burden, and the middle income and working people become poorer and see an increase in their tax burden. The good news is that in fact the Clinton budget began to address that problem. We did raise taxes on the rich. We did, by expanding the earned income tax credit, lower tax, in effect, for the working poor. That was a good start. We have got to continue that effort.

So, those are just a few of the points that I wanted to make, and I wanted to mention that there are a number of us in this Congress who, in fact, are trying to fight hard for the interests of ordinary working people, and some of us have come together in a group called the Progressive Caucus, and what I would just like to do is to yield some time to the gentleman from New York State who is playing an active role in that effort and maybe just ask him how he perceives Congress reacting to the needs of the people from his own district.

Mr. HINCHEY. First, Mr. Speaker, let me inquire as to the time. How much time do we have left?

The SPEAKER pro tempore (Mr. RUSH). The gentleman has 17 minutes remaining.

Mr. HINCHEY. Well, I think so far that the things we have done here have not responded adequately to the problems that affect my district. These are problems that are traceable back to the wounds that were inflicted upon this country, our society generally throughout the decade of the 1980's, where we had wild speculation and investments, and now we are seeing a decline in productivity, a decline in manufacturing and an inward drawing down of the size of major manufacturing companies, and, as a result of that, more and more people are being put out of work. The unemployment rate is going up. Layoffs are increasing. Manufacturers and other industrialists are trying to find ways to contract, to cut down on their costs, and frequently the way that they are doing that most aggressively is by cutting back on the number of people that they have working in these manufacturing establishments.

Mr. SANDERS. That is the so-called downsizing phenomenon; yes?

Mr. HINCHEY. That is the so-called downsizing phenomenon, yes, and it is a very injurious phenomenon. It is injurious obviously to the people who are affected who will lose their jobs. It is injurious to their families. It is also injurious to our Nation because it exacerbates the kind of problems that the gentleman was just talking about, he and I were just talking about, over the course of this last hour, about the fact that people are facing a serious decline in their incomes. More and more families are requiring two incomes just to keep pace, and frequently, even with two incomes, they are not keeping pace.

□ 2130

With those declines in income, they are facing a reduced standard of living. And that reduced standard of living, which is becoming increasingly characteristic in many places across the country, more severe in some than it is in others, but increasingly characteristic across the country, is causing a decline in our economy.

This situation is one that feeds upon itself. It is almost self-perpetuating. If there is no intrusion from without, if there is no program to bring about investment of a program that is designed to improve economic conditions and raise the standard of living and raise people's economies, raise their job prospects and raise their hope, if that does not happen, then the condition that I just described is going to continue and feed upon itself, and conditions are only going to get worse.

That is why I believe so strongly that what we need to do as a Nation, what this Congress needs to do and what the administration needs to do, is to provide a substantial amount of public investment to improve our very seriously deteriorating infrastructure, our roads and bridges, our rail systems, our mass transit systems, and to invest in those existing systems, as well as in systems of the future, high speed rail, advanced electronics.

Mr. SANDERS. If I could interrupt the gentleman, he knows that several weeks ago in Canada there was somewhat of a political revolution of the conservatives being swept out of office and the liberals coming in. One of the planks that the liberals ran on, and I expect they will be implementing, is a major jobs program calling for the rebuilding of the Canadian infrastructure. I think they talked about for Canada a $6 billion program, which, compared to our economy, would be somewhat equal to a $60 billion jobs program in this country.

As I think the gentleman mentioned earlier, Japan has recently done the same thing. So I think we are not unique internationally in saying it makes a great deal of sense to put people back to work in investing in our infrastructure.

The fact of the matter is we are going to have to deal with deteriorating bridges, streets, inadequate transportation, a lack of affordable housing, schools that are crumbling, libraries that are crumbling. We are going to have to deal with it.

Now is not only as good a time as any, it is a better time than any. Interest rates are low. It will cost us less money to make that investment. The longer we wait, the more that investment will cost.

Mr. HINCHEY. Unquestionably, now is the time to do it. We need to plan I think for the future. We need to plan for the next generation. What kind of jobs are going to be available for people getting out of college? What kind of jobs are going to be available for people getting out of high school, those who are unable or do not wish to go on to college? What kind of job opportunities are we are going to attempt to provide for the next generation of our citizens?

It is the young, particularly people in the age group, say, between 18 and 24 years of age, particularly in the inner cities, that are experiencing so many very serious problems. Those are serious problems that afflict not only them, but afflict our society as a whole and cause us to expend enormous amounts of tax revenues in order to attempt to deal with those problems once they get to a level where they become so serious.

Mr. SANDERS. I could not agree with you more. There are millions of young people in this country who will never have a full-time job in their life. The hopelessness that those young people feel is such, and I think Jesse Jackson made this point during the Democratic Convention, I believe, that for some of these people, going to jail is a step up the economic ladder. Because at least in the wintertime it provides them with a bed and three meals a day, which is a lot more than they are getting right now. And given the life that they are living, not that one wants to defend the actions anyone takes, the hopelessness, the understanding that many of their friends have already been shot down or die from drug overdoses, many of these young people see no future. That is a very sad, sad story for the young people of this country.

Mr. HINCHEY. The truth of it is that there are things we can do about it. There are solutions to these problems. I think we are in danger of allowing the problems to look so huge that we seem to be overwhelmed. But the fact of the matter is that this society, with a $6 trillion economy, is still the strongest economy in the world.

Part of the problem in some sense, perhaps one of the most serious aspects of the problem, is the dislocation in those resources, the concentration of wealth in fewer and fewer hands, and

the disaffection of larger and larger numbers of people, lower income people, and increasingly people in the middle income range as well, the disaffection from the economy. It is the inability to take part in the economy in a meaningful and effective way.

Mr. SANDERS. I was the mayor for 8 years of the largest city in the State of Vermont, the city of Burlington. During that time we spent a great deal of effort to get people in the low income communities involved. And we had some success. But it left a lasting impression on just the enormous stress that low income people are living under right now.

Their struggle every day is to see that their kids have enough food to eat, that there is clothing on their backs, on the backs of the kids going out to school, that their daughters are not pregnant, the boys are not in jail, and so forth and so on. And I do not know how it is in your district, but certainly the pressure on low income people is so great that it just is very, very difficult for them to look at politics and government as a way out of addressing those problems that are so far removed. If you are struggling and figuring out how you are going to survive, the idea of looking at elections a year from now or political programs just seems like out of this world. Does that sound familiar?

Mr. HINCHEY. It seems very foreign, absolutely. It seems very remote. Also it is difficult to relate to it in any way, because it does not seem that the people who are running for office frequently are addressing these problems and talking about them. So there is little reason for people sometimes to believe that people who are aspiring to public office have any sense of their problems, any sense of their needs, or, least of all, any attempt to solve them.

Mr. SANDERS. Or they talk about them during the election and forget it the day after the election as often as not.

One of the points I would like to make is if a young person breaks into a grocery store tonight and robs several hundred dollars of groceries or something, that is considered to be a crime, and it should be a crime. It is a crime. Yet I find it so interesting that when large multinational corporations decide to leave this country and head for Mexico or head for Asia in search of, in some cases, starvation labor, and in the process throw American workers out on the street, many of whom might have worked for those companies for 20 or 30 years and invested their entire life in those companies, and when the CEOs decide to move away and leave these people with nothing and these communities with nothing, no one has much to say about that. We do not consider that a moral crime.

I always get a kick out of the word "patriotism." The right wing in this country has done a good job in capturing patriotism. At the end of the war these big corporations put full page ads in the newspapers and said how much they loved the country, and thank you to the men and women who fought for the country.

The next day they are going to close a plant that may well be profitable and move to Asia or Mexico and throw our people out on the street. So I would hope that some of these CEOs, who claim to be great and patriotic Americans, will understand that patriotism is more than just putting a full page ad in the newspaper thanking the Armed Forces; that patriotism means you do not turn your back on American workers, that you reinvest in this country and give our working people the tools and the equipment in order to be productive workers in the international economy. But I am always amazed how little we address that issue.

Mr. HINCHEY. It is also true, I think, that Congress has to not turn its back on the American working people. The Congress and the administration have got to deal with these problems much more aggressively and effectively than they have been dealt with over the course of the last two decades.

There was a time here when people in this room talked about such things as full employment; when they talked about Humphrey-Hawkins; when they talked about taking initiatives to see that every person who wanted a job in this country had a job, a job that would meet the needs of the country generally as well as the needs of themselves and their families.

□ 2140

I think that is what we need to get back to. This Congress has got to address itself to that question. The opportunity for full employment, the opportunity to create good jobs, the opportunity for individuals and families so that the standard of living here can be increasing, can be growing, so that we can create opportunities for people. And we need to devote ourselves also, I think, to our educational system, which we have neglected, particularly to our elementary and secondary schools which are deteriorating in terms of their own buildings as well as the quality of education that is available increasingly in elementary and secondary schools in many parts of our country.

These are the issues that this Congress has got to address itself to: upgrading educational standards, improving the quality of education, educating people for future job opportunities, and then doing what needs to be done to ensure that those opportunities for jobs exist here in this country and not someplace else in the world.

Mr. SANDERS. I could not agree with you more.

It is a funny thing. If you read Harry Truman's biography, Harry Truman, who in his time in the late 1940's was, I would say, a moderate Democrat, was not on the progressive wing of his party. He was a moderate Democrat.

He, in this Congress today, would be perceived as a raving radical. That is really true, because of his identification with the working class and the middle income people of his time and his willingness to stand up to the big money interests.

And the degree to which this country has moved to the right is that you have, of course, we saw this during the recent NAFTA thing, where you have a Democratic President, you have people who are working with the big money interests in this country and are ignoring the needs of ordinary working people.

It goes two ways. Clearly, this Congress, in my view, is way out of touch with the needs of ordinary Americans. But similarly, the people who are watching this at home, the people who are hurting, the elderly people, who today are spending more out-of-pocket money for health care today than they did before Medicare, those people who are not getting a fair shake from the Congress, from the President, have got to begin to stand up and make their voices heard.

The Congress of the United States will not be responding to your needs unless you demand that your Member of Congress does it for you. Because everything being equal, and we saw this just so extraordinarily last week, when corporate America speaks, the government listens very clearly.

They hear Merrill Lynch, and they hear Wall Street. They hear the stock brokerage firms saying, we want NAFTA. But somehow or another, when the hungry children say, "Help us," we seem not to be able to find the revenue to do that. And when the elderly people say, "We need help in terms of health care," somehow or another we find it hard to find the revenue to help them.

In fact, what you are hearing is discussions about how we can cut more and more in Medicare, more and more in Medicaid. So I think it is a two-way street.

Clearly, this Congress is not responsive to the needs of the working people, elderly people and poor people. But I can assure you that the Congress will never be responsive until people begin to stand up and fight back and say, guess what, if you want to know what unemployment is about, Mr. or Mrs. Congressperson, we are going to teach you that lesson pretty quickly, because we are not going to reelect you unless you begin to represent our interests.

So it is a two-way street. Certainly, we inside this building have got to begin to articulate programs that are going to work well for ordinary Americans on the other side of the equation. The working people, the elderly, the

poor of this country are going to have to stand up politically and demand that Washington respond to the needs of the people.

Mr. HINCHEY. These are the real problems, I think, that we face currently. These are the problems that are faced by individuals, by families and, by extension, by our country. The need to provide job opportunities for people who are unemployed and also better job opportunities for people who are under-employed, and to ensure that job opportunities are going to exist for people who are being educated today in our high schools and colleges and universities, this is the issue to which this Congress has to address itself. And this is the issue, I think, that people across this country have to pay more attention to, because not enough is being done on their behalf by their Government.

Not enough is being done on their behalf by the major institutions of this country, including the corporate institutions. This has got to change, and the only way it will change is, as you indicate, when people express themselves, when people regain their voice and begin, once again, to speak out about these problems and do so individually, addressed to Members, their Representatives in Congress, and also collectively through their institutions, through their churches, through their clubs, through their unions, through other societies. This is the way this country is going to begin to move forward again.

We have the strengths, we have the resources, we have the capacity to do it. What we currently lack is the political will, political will and political leadership to lead us off in the right direction to provide those opportunities for the larger good and the larger number of people in our country.

People in this Congress need to provide that leadership, and people outside need to provide that leadership as well.

Mr. SANDERS. I think we are running out of time. I would just like to conclude by thanking you, Mr. HINCHEY, for your excellent presentation, for your work on this important jobs bill that we will be bringing before the Congress, and to just remind the American people and to beg of them, this is your country. This is a democracy.

We have had an extraordinary history. This government is supposed to represent the needs of ordinary people and not just the rich and the powerful. And the challenge of our time is for all of us to begin to stand up and to fight back so that we can create a bright vision for all Americans rather than seeing a decline in the standard of living for so many.

I thank people for watching this dialog and look forward to working with Mr. HINCHEY again.

## WE NEED HEROES AS BADLY AS IN WORLD WAR II

The SPEAKER pro tempore (Mr. RUSH). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, I enjoyed very much listening to the colloquy and the prior remarks of my colleagues from the Northeast. And all I would say at this point is, as bad as some of America's economic problems are, and although I am a conservative and one of them is a proud liberal, another a proud Socialist, I certainly agree that the runaway salaries of the chief executive officers of many of America's corporations, I find it not only obscene and antibiblical, but I find it counterproductive.

I think it feeds an anger at the business community of this country and that it creates the sort of hostility that we see, that I find with my own family tonight, wondering how I am going to replace six family tickets to bring our whole family together for the first time in several years at Thanksgiving time. And relying on my favorite airline, I find it cruel that any labor union would strike a few days before Thanksgiving and think that it was going to create good will for its workers.

What I wanted to do, in a series of special orders, this may be the last one tonight, depending on what happens at the end of the work day tomorrow, I want to break it into three parts again: the culture war, which is certainly a real war, and then anti-heroes, and heroes.

I did not use that title "Anti-heroes" last night, but this country certainly has plenty of anti-heroes.

In my mailbox this morning came a book, edited with commentary by William J. Bennett, President Bush's Director of the Office of National Drug Control Policy, of the media, called the Drug Czar, and before that, Secretary of Education and Chairman of the National Endowment for the Humanities under President Reagan.

Bill Bennett is certainly one of the more delightful thinkers and speakers, communicators on television and radio today.

His book, I said a few weeks ago on the floor of this House, just by hearing the titles of his chapters, has got to be the family book of the year, probably of the decade. It is called the "Book of Virtues." And it is a compilation of wisdom, including children's stories, that goes back for centuries.

Listen to these titles, by William J. Bennett, "A Treasury of Great Moral Stories, the Book of Virtues."

Chapter 1, Self Discipline; Chapter 2, Compassion; Chapter 3, Responsibility; Chapter 4, Friendship; Chapter 5, Work; Chapter 6, Courage; and sometimes friendship in Chapter 4 ends up with giving your life in an act of courage, in the fulfillment of what St. John the Evangelist said in 15.13, "Greater love than this has no man that he give up his life for another."

□ 2150

I will come back to that as I talk about the heroes of 50 years ago. Today is the 50th anniversary of the invasion of the Gilbert Islands. The Army, in landing in Makin Island, the U.S. Marine Corps in Tarawa, 50 years ago this morning they landed, and by night there were 100 dead in Makin and 700 or 800 dead on Tarawa, driving toward that final death total of 1,123 more young Americans, pro-rated to the number of forces involved in the conflict, died on the island of Tarawa than any combat up to that point, including Antietam and Gettysburg in the Civil War, where both sides of the casualties were American.

So Chapter 6, Courage. Chapter 7, Perseverance. Chapter 8, Honesty. Chapter 9, Loyalty. and 10, Faith. What a treasury. I said on the House floor the other day, I wonder if Bill Bennett is going to have Pinocchio. He does. It includes from Pinocchio the story, the great Italian classic fable by Lorenzini, it uses the part where Pinocchio's nose grows with each lie that he tells.

Mr. Speaker, in this cultural war I referred to yesterday's newspaper, the Washington Times, the front page right under the fold, "Clinton Aide Blamed for Pornography Law Proposal," it has a picture of the Deputy Solicitor General, Paul Bender, and says that he was the one who has long sought liberalization of all of our pornography laws, including child pornography.

The 1988 race, even though Michael Dukakis, with some good nature, and factually, said he was a card-carrying member of the ACLU, he departed from the ACLU, Governor Dukakis did, he would not have had a prayer of getting the nomination if he had not, when he said that child pornography, once produced, is still slime and should be considered contraband.

The ACLU has always, to my knowledge, held a position that it is illegal to produce it, it is ghastly for a parent to sell their child into evil pornography, but once produced, it has all the protection of free speech and you can traffic in it. This is what is tearing the beautiful little Scandinavian nation of Denmark literally apart.

Guess who Deputy Solicitor General Paul Bender was back in 1970? Twenty-three years ago he was the chief counsel for the few years before that of the commission that President Lyndon Baines Johnson had created to do something about pornography that was exploding across this country.

It was being sowed into the minds of our kids, and look at the evil harvest we have reaped at this point in the sexual revolution, so-called, that made

pornography a joke. As a matter of fact, the first time I ever heard of Pat Buchanan was, he was working for Richard Nixon as a young writer, when Nixon had taken the presidency and was sworn in in 1969 to the Johnson-created Commission on Pornography with this Paul Bender, who is on the Federal payroll over at Justice now as its chief counsel.

He came out with its report that said it should all be liberalized, that there should be no laws against pornography, not even child pornography, and the U.S. Senate went berserk, not quite as tough as the other day, when they passed, in a rare 100-to-nothing vote, a criticism, a rebuke of President Clinton's Attorney General and the Justice Department, and they didn't know this gentleman was over there at the time, in detail, and a rebuke of Paul Bender that we not reduce the toughness of the child pornography laws in this country, 100-to-1.

I spoke on it on the House floor that same week, as did several of my colleagues. Patrick Buchanan wrote for President Nixon the rebuttal of the report that was rejected by Nixon as morally corrupt, and rejected by the Senate, with the same strong type of language. Buchanan wrote, "This report," from Bender's commission, "is the Magna Carta for pornographers." And it was the Magna Carta. Unfortunately, Bender, then selected out of the far left of this country's legal community, a professor, I think, when he got his appointment, and now sits over at the Justice Department while Bill Clinton postures with this letter to Janet Reno that says, "I agree with you that there was something wrong with the law. Let's get a tough law." There is nothing wrong with the laws.

As everybody has said, and all the Senators have said on the other side, certainly the Republican ones, just keep enforcing the law as it is, but as with every other case, as with the murder in the post-World War II period's longest firefight in Mogadishu, Somalia, no heads rolled. Nobody is replaced, but it looks like Morton Halperin is going down.

In today's newspaper, listen to this, Mr. Speaker: "Halperin concedes he acted improperly while a nominee." I have done several special orders on this leftover from the radical foreign policy revolution that was going on at the same time as the sexual revolution.

Listen to this: "Having spent more than 30 years," this is Halperin speaking, "thinking, teaching and writing about the use of force, I believe that I have the qualifications and experience to do this job."

This was a created Under Secretary post at the Pentagon called the Under Secretary for Democracy and Peacekeeping. What an unbelievable choice to fill for the first time this created seat. He may have thought and taught and wrote about the use of force, but he has never worn his nation's uniform and he has never had himself or anybody in his family go in harm's way, so he can deny that he was part of the decision to jerk out the AC-130s, the Spectre gunships, two days before our Rangers and Delta guys arrived there.

I don't believe that for a minute, because in a second I am going to tell Members that he admits he lied, but he does say that he was a big part of the decision to push in the face of the U.S. military homosexuals, declared and practicing, no matter what the line enlisted men, line NCOs, warrant officers, line officers, or even the Joint Chiefs of Staff said.

Mr. Halperin in the Senate, in Senate testimony, yesterday said that he did write memoranda improperly offering his views on policy, even though TRENT LOTT, or after TRENT LOTT held up an April 2 memorandum labeled "Subject: Personnel Action" signed by Mr. Halperin, and he had been telling the press and the world and his boss-to-be, once he was confirmed by the Senate, Les Aspin, our former colleague, and I guess all the way up to the President, saying that he never did that, and now he has to admit that he lied in front of the U.S. Senate.

Still he arrogantly says, "I have the qualifications and experience to do this job." He admits that he participated in interagency policy meetings, wrong, for anybody not confirmed; that he did take part in personnel actions; that he represented the Pentagon in talks with the Justice Department, probably in talks with this guy, Paul Bender, about lifting the ban on all homosexuals, lesbians, and bisexuals, that was the new twist this year.

He says, "I want to apologize to this committee for my actions. I can only assure you they were done without any intention of presuming on the Senate's right to confirm nominees."

Does he actually think that an apology is going to carry him into a confirmation process? I think if the Senate goes out tomorrow and he is left hanging, I don't think, I predict his nomination will be withdrawn, because President Clinton is on his new morality kick about young people in America, and he is enjoying his image as the presidential fighter for NAFTA, the North America Free-Trade Agreement.

He may enjoy being this new kind of Democrat that he has not been for 10 months, but that he promised he was going to be during the campaign of 1992.

There was one more thing I wanted to catch here. Senator STROM THURMOND of South Carolina, the senior Senator, and I think the senior Senator for any length of time that anybody has ever served in the 217 years of our Nation, he says, "Mr. Halperin is unsuited for any position in the Pentagon. He has a distorted view of the nature of conflict and international affairs, and has taken irresponsible positions well outside the mainstream of defense thinking.

I will put some of these in again tonight. I have mentioned them many, many times on this floor in the last two months. Let me give one more little close here, Mr. Speaker. Again, remember, as the cameras pan the House, that there are 1,300,000, 1,300,000 people watching. Maybe on a Saturday night it is down to just 1 million of our 260 million fellow citizens.

□ 2200

JOSEPH LIEBERMAN, moderate to liberal Democrat, good man, asked Mr. Halperin how he expected to be effective in light of the opposition to him by the military personnel. And I have been over to the Pentagon, and I can tell you that it is palpable. He said well, that is a good question. He says it is one that has troubled him, but he attributed the vehement opposition to his confirmation "to people who don't know me."

But here is what he had to deny, imagine what he had to deny, and I do not believe half of this. He says he did not take part in a decision to send armor to Somalia, a mistake that contributed to the deaths of 18 U.S. soldiers on October 3 and 4, 15- to 17-hour firefight in Mogadishu. He did not order a U.S. military commander to terminate a military exercise in Central America. He did not advocate supporting U.S. military forces to the United Nations. Wow. Let me come back to that one.

He did not oppose every counterintelligence operation. Wrong. He did not aid in the disclosure of the Pentagon papers. Well, all I know is his name was used all of the time in the stories, and that Secretary Kissinger put a phone tap on his house, not a nice thing to do. He should have fired him. Neither of them brought glory on themselves during that period.

He did not aid CIA Agent Philip Agee publicize the names publicly of our CIA personnel around the world.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RUSH). The Chair would caution all Members against commenting on nominations pending before the Senate.

Mr. DORNAN. Mr. Speaker, I am glad I reached the end. Yet this is so key to the security of the Untied States that I do not apologize for what the jury may have heard up to this point. I cannot, I just cannot. But I will not do it again, although I will probably go over to the Senate, if they are still in tonight, Mr. Speaker, and talk to some people over there.

Yesterday I talked about the 130th anniversary of the Gettysburg Address. I said it was over 260 words. There is a little question before George Will and my count. I counted this three times

again today, 271 words, but I will go with George Will's great articles on the Gettysburg Address this year that it was 272. And my good high school teacher, Brother Richard, says it was 271. He also goes with George Will.

In those 272 words, the key words are in Lincoln's close when he said, "From these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom."

One of the writers of the time noted that it was not in the script of what people called Lincoln's silly little speech, a speech that will echo down through all of the history of this country, maybe the history of all English speaking nations and other nations who love freedom. But he did add those words, "under God," not as an afterthought, but, as I said last night, as someone who attributed anything he ever achieved, and any beauty, poetry, or greatness in his word or thought to his constant reading of the holy scripture of the Bible, and for rhythm to his reading of Shakespeare.

When Lincoln said those words this country was a little over 32½ million people. We were not counting the hardworking Americans of African American heritage who came here against their own will, so let us call it 35 million people, 35 million citizens.

Mr. Speaker, when my dad was born in 1892, the country had grown to just over 64 million. I remember telling George Bush that the country had more than doubled when he was Vice President from his birth year, 1924, which was only 114 million. When I was born it hit 125 million on the nose. We are way past, double that in just my lifetime.

So in my aging in this country we are two Americas, twice as big as the one when I was born. And in 1933 there were 125 million Americans.

Here is the point that I want to make that I have researched with our statistical abstracts. In 1941 when Pearl Harbor was hit, if you extrapolate half way between the two figures that the Census Department gave me, we were a good 134 million plus. Now we are not quite double that.

But here is the point about Lincoln's quote, "those who have given the last full measure of devotion—their lives for their country, its freedom and its causes," by the time all Americans had come home from overseas, and the Census figures are all hard to interpret during the war, because we did not in those days even count any American overseas, even a serviceman dying on the beaches of Normandy, or dying 50 years ago today in a triple cross-fire because they misread the tides on the little atoll of Tarawa. By the time everybody was home, or most were home, and we left hundreds of thousands in Europe and have ever since, and we still have over 200,000 in Europe, in 1946 our population was 140.7 million. Let us call it 141 million. And that means the country grew 7 million people during the period of the Second World War during which period 312,000, 312,000 died. But if we grew by 7 million, was the country going to miss the sweat of their brow, the manpower which some of those young Gold Star mothers grieved for for the rest of their lives, of course, but would the country be crippled the way Paraguay was crippled, or the way European nations were crippled after the Hundred Years War, which was actually about 130-some years?

No, we were growing, expanding. All of those 12 million to 14 million men, depending on our counter, who came home, they started families. The Nation went into a great expansion period.

But in my generation we did not forget the 300,000, even though we picked up 7 million during those years. When I was married in 1955 in the Air Force, just a brand new second lieutenant with shiny new silver wings, we were at the 166 million. Before this century is out, we are going to have double that into a whole new America. More than half of this country is below 30 years of age.

Day after tomorrow we celebrate the heartbreaking murder, assassination of John F. Kennedy, our youngest elected President. I was reading this evening in the U.S. News & World Report, "The Lost World of JFK." I read in the opening paragraphs that "30 years after his death, John F. Kennedy is fading from focus. Once all Americans could remember where they were when they heard the awful news on Friday, November 22, 1963."

For me it was 10:30 in the morning. I know right where I was, in St. Paul the Apostle's Church, when a priest came up to me and told me.

Most Americans, the majority of Americans have no memory of 1963 at all, and Kennedy remains still the most admired President. The family is still at the center of politics, even more than the Adamses or any Roosevelt family. Yet today, Kennedy's magic, or the era he inhabited are difficult to recall.

Well that painfully makes me think of President Ronald Reagan's last words to this Nation, a good distance from President Bush's inaugural day. He wanted the focus to go to President Bush. But he took his goodbye on January 11, 1989, and President Reagan, almost as an afterthought at the end of the speech, but that is when he was most effective, is when he looked into the camera and was speaking from his heart, and he said, "Is America forgetting to teach its children its history?"

Well, if we were only 35 million people when Lincoln spoke that Gettysburg Address 130 years ago, are we teaching that part of our history? Yet there was not a single memorial ceremony in this Chamber or the other Chamber, the U.S. Senate, during all of this year commemorating any of the events of 1943, the 50th anniversary, and nothing for the 70th anniversary of my father's war, World War I. And he was in the trenches when that ended. The President mentioned it on Veterans Day, but I did not hear any speeches in this House, except mine.

By the time this decade is over, I guess there will not be any World War II veterans in this House, so there will be nobody to remember the 55th, or the 60th, or the 75th anniversary of World War II.

□ 2210

When President Reagan was inaugurated, there were 228 million Americans, so now we have 230, 240, 250, 260, and we are not teaching these children anything about what made our country what it is, the good, the bad, and the beautiful, and some of the ugly. What a tragedy. What a hard thing to get Members in my own party, let alone the other party, upset about this report in the paper this week that I mentioned several times this week, a government report, and here it is. I have got it, and I promise you, Mr. Speaker, and anyone else listening to the proceedings in this Chamber that when we come back in January that I will have absorbed this report word for word, will have probably gone to the Soviet Union myself, and if I cannot go with Malcolm Toon, because this so-called commission does not want a Member of the House, elected eight times, who has worked on this for almost all of my adult life since I left the Air Force in 1958.

I have done nothing but think at least once a week daily about my friend David Hurd, like I lost in Laos, but this is about several hundred U.S. prisoners left behind in Korea.

Listen to this, "The transfer of U.S. Korean war POW's to the Soviet Union, Joint Commission Support Branch, Research and Analysis Division, 26 August," and I only find out about the last week. It was kept quiet all of this time. This study was prepared by Dr. Peter G. Tsouras, with a "T" like Tsongas, Major Werner Hindrichs, Master Sergeant Danz F.H. Blasser, with the assistance of 2nd Lieutenant Timothy R. Lewis, good work for a 2nd lieutenant, Mr. Paul H. Vivian, Staff Sergeant Linda R.H. Pierce, Sergeant Gregory N. Vukin, probably of Russian or Ukrainian heritage, and listen to the executive summary, Mr. Speaker: "We believe that U.S. Korean War POW's were transferred to the Soviet Union and never repatriated. This transfer was a highly secret MGB," and that was the name of the KGB after it was the Cheka and the NKVD, then the

MGB and now the KGB and still functioning as the KGB, although it is split into an internal and an external secretariats, "by the inner circle of the Stalinist leadership. The rationale for taking selected prisoners to the U.S.S.R. was to exploit and counter U.S. aircraft technologies, to use them for general intelligence purposes, and it is possible that Stalin, given his positive experience with Axis POW's, viewed U.S. POW's as potentially lucrative hostages, given his positive experience with keeping," you know, thousands and thousands of German and even prisoners of people who helped them in the war. "The range of eyewitness testimony as to the presence of U.S. Korean POW's in the gulag is so broad and so convincing we just cannot dismiss it. The Soviets' 64th Fighter Aviation Corps which supported the North Korean and Chinese forces in the war and flew combat missions had an important intelligence collection mission that included collection, selection, and interrogation of POW's. A general staff-based analytical group was assigned to the Far East Military District and conducted extensive interrogations of U.S. and other U.N. POW's in Khabarovsk. This was confirmed by a distinguished retired Soviet officer, Colonel Gavriil Korotkov, who participated in this operation. No prisoners were ever repatriated who related such an experience. Prisoners were moved by various modes of transportation. Large shipments moved through Manchouli and Pos-yet. Khabarovsk was the hub of a major interrogation operation", and now that is a city, "and against U.S. POW's from Korea. Khabarovsk was a temporary holding and transshipment point for U.S. prisoners. The MGB controlled these prisoners but the GRU," and that is the Soviet Military intelligence exactly equivalent to our DIA, "was allowed to interrogate them. Irkutsk and Novosibirsk were transshipment points. But the Komi A.S.S.R. and the Perm oblast were the final destinations of many POW's".

Let me jump forward: "POW transfers also included thousands of South Koreans, a fact confirmed by the Soviet general officer Khan San Kho who served as the Deputy Chief of the North Korean MVD, their KGB."

Now, listen to this, and I read this with an angry, angry disposition, because I flew F-86's in peacetime. I was inspired to go in the Air Force by our F-86 pilots over the Yalu River with a 13-to-1, certainly an 8-to-1 victory rate, and this could be JOHN GLENN I would be reading about, and JOHN GLENN would never have set a transcontinental speed record, never have been the first American to orbit the globe in 1961, and never would have served in the U.S. Senate if he would have disappeared into the mist of the ugly gulag Stalinist camps if he had ever been shot down. He shot down three MiG's in Korea. They would have loved to have gotten their hands on that proud son of Ohio.

Listen to this: "The most highly sought after POW's for exploitation were F-86 Sabrejet pilots and others knowledgeable of new technologies. Living U.S. witnesses have testified that captured U.S. pilots were on occasion taken directly to Soviet staff interrogation centers. A former Chinese officer stated that he turned U.S. pilot POW's directly over to the Soviets as a matter of policy. Missing F-86 pilots, of 60 that were seen with good chutes, 10 went into captivity, 50 were never heard from again."

Mr. Speaker, "Their captivity was never acknowledged by the Chinese in Korea. They were identified in recent interviews with former Soviet intelligence officers who served in Korea. Captured F-86 aircraft were taken to at least three aircraft design bureaus for exploitation, and the pilots accompanied the aircraft to the Soviet Union to enrich and accelerate the exploitation process."

Were they executed? Were they broken by the viciously hard work in the gulag camps? May I repeat Lincoln again? "We have to take increased devotion to the cause for which they gave the last full measure of devotion that we here highly resolve these dead shall not have died in vain and that this Nation, under God, shall have a new birth of freedom."

Mr. Speaker, yesterday I spent a lot of time talking about a great hero. I am going to put this article in the RECORD, too, from the same U.S. News and World Report with John F. Kennedy on it, on the cover, "Troubling evidence on Vietnam POW's." How are we going to solve Vietnam if we left 389 prisoners behind who were known to be alive in camp, no amputations, no head wounds, no amoebic dysentery, no diarrhea, good, functioning, skinny, but functioning healthy 389 what we call Class A prisoners, and they say to their bunkmate, "Jim, if you make it, call my mother." "Johnny, if I make it, you call my young wife and my baby and tell them that I am going to try and get out of here. Let us cover one another." One man shows up on the other side of Freedom Bridge and the other never is heard of again. Unbelievable.

We have been in a standoff with the North Koreans since July 27, 1953 saying that we will only deal through the U.N., and they say, "You deal with us directly," and on that diplomatic technicality, 8,100-and-some Americans remain missing in action.

Yesterday I mentioned Jimmy Doolittle's book, and I misstated the title. It is, "I Could Never Be So Lucky Again," and autobiography by General James H., Jimmy Doolittle with Carroll Glines.

I wanted to put in one quote that I left out from his son who had a great career in the Air Force on his own. His son said, "Dad served his country very well and his family beautifully. He was successful in business. If you want one word to define him that word is integrity," his son said.

A man of this integrity should have been put on the case of our POW's from Korea and left on it and given the money to run a commission and track this down like a bulldog, but, no, something went wrong even in the administration of a war hero named Ike Eisenhower.

Listen to this part that I did not talk about Doolittle after the war, "He refused to fade away, becoming an outspoken proponent for air power, pushing for a separate Air Force in the Department of Defense, and leaving America a legacy of air superiority enjoyed to this day, confident, an adviser to Presidents, a leader in business and industry, winner of virtually every medal his country had to offer, Doolittle remained active long after most men would retire, supported by his 71-year-old marriage to his one and only sweetheart, the loving, understanding Jo who stood by his side through it all," Josephine Daniels.

□ 2220

Doolittle tells the story of success, triumph and tragedy of a true American hero, a far-seeing leader whose courage, devotion and daring changed the course of modern history and continues to make his influence felt to this day.

Why do not some of our high school teachers go ask the children to take out a book like this out of the library and do a report on it over Thanksgiving or Christmas? I could never be so lucky again, faith in God. This book of Bill Bennett's ought to become a textbook. One of the liberal writers in Newsweek says this probably is going to give a leg up on the Presidential nomination come 1996.

Now, a lot of you have kindly written to my office and asked me how did God given me this incredible memory that every day I will get up on the floor and mention if I get a chance something that happened years ago. Yesterday I forgot to mention that that was the anniversary, in 1969, of Alan Bean and Charles Conrad walking on the Moon, our 3rd and 4th men, still on the Moon. That was today, 1969, 24 years ago.

They were on the moon and our President was on his way over to England to demonstrate against this country and ruin his change for ever getting a secret clearance or even a confidential clearance in any branch of this Nation's Government unless she got elected here or to the Senate or the No. 1 spot itself.

But I want to tell you that I do not remember all this from World War II. I

said on the floor last year and the year before I started doing this in 1941.

I have a British book here published by Dorsett Press, simply titled "World War II, Day by Day." One of my colleagues in Indiana got it and said that he is now emulating what I do, opening it up every morning to think about what our young guys around the world were doing 50 years ago.

Listen to this from "Today"—well, let me back up yesterday, 19 November, Central Pacific, United States air carried raid at Mele, Tarawa, Macon, Naharu, which is by itself the smallest nation that has a vote in the General Assembly of the U.N.

Preparation for coming landings, 4 carrier groups from Admiral Pownar's task force 50, which includes 11 carriers. Now, how did American industry do that? We were down to 2 aircraft carriers when I was discussing on the floor here where we were in the spring of 1942, 1½ years ago. 11 carriers, 5 battleships, 8 battleships, all of them were sunk in Pearl Harbor. 3 or 4 of them were already back on the line in the Gilbert Islands, less than 2 years later. 5 battleships and 6 cruisers. On the other side of the world, Italy, the Germans withdraw the last of their forces north of the Sangro River. Although the British 8th Army also had troops north, they could hold very little ground and a major formal attack would be necessary in order to expand their tiny enclave.

The eastern front: Germans move in to take Zitomeier, as the Soviets realize their danger and pull back. The Germans still had some fight left in them, although their highwater mark was Stalingrad.

Now comes "Today," 50 years ago today—I told you yesterday that this is the 2nd day at the Battle of Berlin by Sir Arthur Baumer, nicknamed "Harris," would lose 600 planes between now and March. All of these guys bailing out into the winter night over a snow-covered European landscape. Americans starting to get in on these missions but taking it on the chin in the daytime, some of them being pitchforked to death. Most of them ended up in gulag camps, where they got better care out of the Nazis than we got out of the Japanese warlords, and yet we had more war trials for the Germans than we did for the Japanese. Figure that one out. And yet people say there was a racist edge to the war. What baloney.

Gilbert Islands: "Today," 50 years ago, American landing operations begin. There were United States landings on Tarawa atoll. General K.C. Smith leads 18,600 men from the 2d Marine division, escorted by Admiral Hill's task force 58 with a bombardment group of 3 battleships, 4 cruisers and an air support of 4 escort carriers.

The Japanese garrison comprises 4,800 men led by Admiral Shibasaki. They had 50 artillery weapons, 7 light tanks. And I will put this in the RECORD. They threaten us and said, "No amount of force is ever going to dislodge them."

And then our great on-the-ground commander Colonel Shoup at one point says, "The issue is in doubt," or words to that effect. The Marines, by the way, were relieved at one point by the Army in some of these battles—I had said the Army is going. Let me read a Medal of Honor award to a young private, a young kid, 19 or 20.

"In the limited engagement elements of the 3d division"—now, this is up in Bougainville at the exact same time on this week. It shows the fighting was not all in the Gilberts but in the West Pacific and the south and were also taking it on the chin.

The elements of the United States 3d division, they are now over in Germany to this day, offer firm resistance, then mount a counterattack. Private 1st Class Floyd K. Lindstrom's platoon gives cover fire to a rifle company's advance when the enemy assault occurs. However—if I gave this as the Southwest Pacific, Bougainville, that is up above, and I will put that in too. This is now in Italy.

Presser had been forced to withdraw by the Americans, leaving Private Lindstrom's unit outnumbered 5 to 1. Lindstrom advanced with his machinegun to find incessant fire, he gains a position 10 yards from the Germans. Unable to score a kill, he intensifies his effort and charges over rocks and then kills 2 men with his pistol, confiscates their German machinegun and returns to his own men. Still defying danger, he again returns to his enemy position and transports 2 boxes of ammunition back to his lines and begins firing his own machinegun in a fantastic display of dare that virtually breaks up the assault of the overwhelming German forces 5 to 1.

Up in Bougainville Marines hold the junction, that is this week, of the mission at Numa-Numa trails after their successful drive which kills about 550 Japanese. The Marines 3d division are ordered by the general to drive in two directions, east and west, simultaneously to secure and hold an airfield site. Additional contingent of the 21st Marines arrive. The Japanese suffer more damage to their ailing fleet at Sansung Harbor in New Britain. So here is a Marine 3rd division doing battle on Guadalcanal, the United States Army 3rd division battling in the mud in one of the worst winters of Italian history, and here is the 2d Marine division landing on Tarawa. Now back to Tarawa: Landings are made on Betio Island—and I repeat that I walked all of this with our former colleague, Steven Solarz, back in 1989—which is a little more than 2 miles long and nowhere more than half a mile wide and nowhere 3 or 4 feet above sea level. I think the highest point was 9.

The preliminary bombardment is massive but not precision enough. The supporting warships fire more than 3,000 tons of shells. Let me jump ahead. Of the 5,000 who attempt to land, 1,500 become casualties. Owing to the state of the tide and utter, unknown confusion in the chain of command, reserves are never sent at first and cannot eventually ever be sent this first day. At nightfall, 50 years ago tonight, the outcome of the battle is still in doubt. During the night the Japanese undertake infiltrations, but because of the bombardment, are not able to organize an attack. There are also United States Army landings on Makin Atoll. The attack force here is drawn from General R.C. Smith's 27th infantry division, shut down here recently. Their support was supplied by Admiral Turner's task force 52. The landings on Betio Atari are fairly successful despite the energetic defense and inexperience of the attackers. The carrier Independence, from the main carrier task force, is hit by a submarine torpedo and tomorrow we lose an escort carrier and 600 Americans drown at sea. That is not part of that 1,123 that die in the attack.

Then I had forgotten in that figure, I hope it is rolled into that, because 84 men disappeared, probably carried out by the tides of the sea, of the invading force, young Marines.

When I was 10 years of age and newly arrived in California, my uncle, Jack Haley, had a small cattle ranch down near San Pasquale, south of Escondido in California. To get down there, there was only one way to get there, and that was to drive the coast road.

□ 2230

There was no big Route 495 in those days, and we drive slowly through Camp Pendleton. Sometimes my uncle would stop there to do a show for these young kids, and when we see them practicing on the beaches of Southern California, as they still do today and have for 50 years, and I look at these kids and think they were big grown up men. Now I have to look back and realize some of them had barely started to shave, and they turned this history.

Mr. Speaker, for any Americans interested in this, there is going to be an awful lot in the CONGRESSIONAL RECORD tonight. If you want to do some of this reading over the holidays, we are going to be out of here by Monday for 2½ months.

The Clinton battlefield is all his for moving American stories, but ask your Congressman to send you the CONGRESSIONAL RECORD of 20 November, 1993, and you will see some of these stories.

I am going to put in some material in here from what took place this whole month of the almost 5,000 Japanese who defended the Island, and only 17 survived. That is how they would fight to the death.

"Do you have enough men to take the Island?"

Colonel Shoup of the Marines responds semi-ambiguously, "Situation does not look good."

Americans went to sleep not knowing how many of their sons were dying there.

Here is an article I want to put in called, "Let's Remember What Veterans Did In The Wars." Emma Pollack, it is a beautiful little article. Her husband fought in two wars, received this care in VA hospitals. Her father fought in three wars and died in a VA hospital. Beautiful article. I do not have time to read it.

I may put in some more of it. Well, I asked permission to put this in a few weeks ago. I will put in some more things on what is happening over at the Pentagon.

Now I want to jump forward here to Somalia and our troops over there, who are not going to get any visits from any important Americans, I guess, for Thanksgiving or Christmas. They are still hunkered down in their mini-little strategic hamlets. They are in garrison over there, although they were talking about coming out for the last 10 or 15 days.

I will tell you who came out, the warlord killer of 30 Americans, Mohamed Farah Aideed. He is out at a huge rally the other day, thousands of people rallying around him, all carrying their AK-47's and their RPG grenade launchers. They are all rocket-propelled launchers. They are all out in this big parade. He has won big time.

How do you explain that to the mothers and wives who have never gotten a call from any high-ranking American? They got form letters, though.

Somebody called my office last night and said, "Well, you are unkind. President Clinton did visit the wounded at Walter Reed Hospital, and on Veterans Day he went up to a veterans' hospital in West Virginia."

Yes, that it true, but as one of the people in there told me, with pins sticking through the flesh of his leg ripped in half by an AK-47, "Well, it was a nice gesture for him to come here, but he really didn't know what to say to us." That is the problem we have with this hostility to the military culture.

Here is an article that I want to put in—no, I think I put it in yesterday. I do not have to put it in again.

"Clinton assailed for not naming vets to key post, broken promises."

"Washington. A prominent Vietnam veteran, West Point graduate, who supported Clinton in 1992 is urging his fellow veterans to vote against him in 1996. At issue is the administration's alleged practice of discriminating against veterans," said John Wheeler, an attorney who graduated from the Military Academy at West Point in 1966 and went right to Vietnam. His class I think took the most casualties, his class of 1965.

"In this administration, veterans are second-class citizens," said Wheeler, an Army officer in Vietnam for 2 years, 1969 and 1970. He made the comments at a November 9 news conference sponsored by the Vietnam Veterans Institute, a nonprofit organization.

He points out that of the 60 million Americans who reached adulthood during the Vietnam war, only 10 million served in the military.

See that factor of one out of six, what they owe, what Lincoln is talking about, our memory, our collective national memory on this?

By his estimates, then he goes on to say that only 3 million of the 10 million who served in the Vietnam era—I am both a Vietnam era Reservist and a Korean war aero vet, because I was in pilot training when the Korean war ended. Some of my colleagues love to bring it up in campaigns, as though I was not anxious to go to Korea. I only joined at 19. I am sorry I did not join at 17 and forge my parents' signatures, but I wanted to be an F-86 pilot, and thank God President Eisenhower, a five-star general, was President then, so I never had to hurt another mother's son or break my mother's heart and never meet my Sallie Hansen and bring my five kids and nine grandkids into the world.

Anyway, Capt. John Wheeler goes on to say that with 3 million serving in the war, by his estimates, one-third of all Presidential appointment should go to veterans and one-tenth of such appointments should go to Vietnam veterans, on an average, he is saying, does not want a quota system. He calculated that of 92 White House staff appointments, only 3 served in Vietnam. He thinks there should at least be 7 out of 92.

No, there is a hostility over there that unfortunately is frightening.

Look at this. In that article about the confirmation process that I will no longer speak about, there is another article about Hillary's visit to the Pentagon. Les Aspin let her try out the so-called hot line to Moscow. Did he actually use it? He later quipped that Hillary started the war, ha ha.

Now, this is certainly reminiscent, is it not, of the Reagan remark to begin bombing in 5 minutes, kidding around with the soundmen, not knowing it was on, and all the liberal-dominated media culture troops just went berserk.

Well, I guess when a conservative says something like that, Mr. Speaker, it is a serious gaffe, but when a liberal Secretary of Defense says it, it is merely a quip.

Now, look at this in today's paper on the President himself and our desire in this Congress. There he is, sick and tired of the liberal press. He does not know they saved him over and over, particularly in New Hampshire and during the campaign, as every damaging story popped up they would spike it, suppress it.

I am looking for a story where he says he does not care what we believe in Congress about putting troops under the U.N. command. He is going to do exactly what he feels like.

Now, technically he has a right to protect the Commander In Chief's status and defend it, but the idea is here that a Republican President would not even find himself in that position.

I missed it. Let me try it again. This is too wonderful to miss on this next-to-the last day before we go out.

Mr. President—I cannot address the President, it is against the rules; but Mr. Speaker, what are we going to do about this? Here is an Associated Press story off the wires 2 days ago.

The quality of men and women who are recruited to join the military services declined in the last year, Pentagon statistics reveal. The report is seen by military analysts as a critical indicator for the ability of the military services to entice high-quality men and women into our military. The Defense Department uses several measurements to determine the quality of its newest forces, the proportion of high school graduates, the share of recruits who score in the upper half of their enlistment test and the proportion of recruits who are both, both a high school graduate and an upper half scorer.

Of the 206,927 young men and women who were brought in during the fiscal year, the drop is not significant, but in the case of the Army, 4 or 5 percent, and the case of the Navy 7 percent in that category, bringing it down to the lowest of the four services, that double category of those who have passed both tests.

Well, I know that article is in here because I am trying to do it up on my feet. I guess I am going to miss it.

What the President says is that he is going to ignore—this is the headline—ignore the wishes of the Congress on whether or not troops are going to be put under U.N. command. He says he will do it, put them under foreign commanders, although he will always make sure that there is a U.S. commander in the chain of command.

Well, I think we are in for a rocky rough road the next 3 years, Mr. Speaker, if we think that—well, that is why I am not finding it, because it is not in yesterday's paper. It is in today's paper and I have already sent that up to the desk. Here it is.

I want to be sure I get this right, Mr. Speaker. Let me read from today's paper. There is Halperin on the cover, there is the Hillary story, and here it is.

□ 2240

Clinton says he will ignore Hill wishes on foreign command of U.S. troops. Clinton will not let an act of Congress stop him from placing U.S. combat troops under the control of a foreign commander in future international peacekeeping operations. In a statement released yesterday, the 19th, Mr. Clinton said he would disregard congressional restrictions in the defense

appropriations bill against allowing foreign commanders control of U.S. forces. Then he signed the bill into law. I construe it as not restricting my congressional responsibility and authority as commander in chief, including my ability to place U.S. Combat Forces under the tactical control of a foreign commander where to do otherwise would jeopardize the safety of U.S. Combat Forces.

Well, that is cleverly constructed. He said this in a statement dated on Veterans Day.

Such U.S. combat forces shall, however, remain under the operational command and control of U.S. commanders at all times.

Now I have been calling for an investigation of what happened in Somalia, what happened out there, the whole month of October, what happened after an 8-day warning that they could shoot a Black Hawk H-60 helicopter out of skies with a rocket propelled grenade, and I have a statement here from one of the officers that says if would not have significantly changed the firefight.

Now what does the word "significantly" mean if it is put in terms of the last full measure of devotion and blood? Does it mean one, or two, or three, or four American lives could have been saved?

I found a Henry Hyde article from last week that said there were 13 young widows who their whole lives were ruptured and changed as dramatically as any life can be changed, 13 widows and 17 children who did not have their daddies on Halloween. Even if they had been over there, they would have known their dad's presence was there for them to go out and enjoy with their moms and other military families and other fathers supervising that had not been called off to Somalia, but what is really going to hurt is next week at Thanksgiving. For the first time daddy does not even have a letter there when the families come together.

Christmas; no daddy on Christmas.

Well, let us talk about armor. The two men of the Tenth Mountain Division who died at the K-4 circle, those two men certainly would be alive because they would have had Abrams tanks and M-2 Bradley vehicles blasting through those roadblocks.

What about one of the Ranger commanders, Danny McKnight, said, that young Smith, 21 years of age whose father was a veteran, a retired lieutenant colonel, that he—I am sorry; that is Joyce. This one, Smith, I believe his father lost a leg in Vietnam. He was killed at 3 or 4 o'clock in the morning when an RPG hit the wall opposite of where he was hiding out in a room where the floor was slick with blood of our Rangers.

You know what I have just discovered in the last week? It has been under my nose the whole time. I read an article in the Army Times that says a hundred men were wounded and 18 killed. Another killed and 12 more wounded 3 days later when they mortared the exact front door of the Ranger and Special Forces living quarters. A hundred? I have been saying "70" here, and then it suddenly hit me.

"I am going to come in here on Thanksgiving with two of my grandchildren, Kevin and Colin, 10 and 8. I hope they remember this the way I remember the heroic period of World War II. We are going up on the roof to help some of our good staffers who agreed to do this for these courageous families of the wounded men and the killed in action, and we are going to run up there 30 flags for all the families who have had someone killed in Somalia, and then we are going to run up a hundred flags for all the wounded.

Do you know that I cannot get the names of 30 of the wounded, and that is understandable, but I am going to meet these people in person when I go down to Fort Bragg and pass out these flags. Most of them are so tough that they are already back on active duty, but there it is right in front of me. The figures I get are 70 and 30. That is a hundred wounded.

Now how many of those hundred wounded were wounded at the K-4 circle because we did not have armor? How many of the Rangers were killed because we did not have an AC-130 gunship overhead spraying the neighbor with fire, holding back the crowds of crazed people with AK-47's that eventually beat to death some of our men and dragged their bodies through the streets cutting off arms and legs? Where is the decision for an investigation in this Chamber?

Well, Mr. Speaker, not all is lost. SAM NUNN is going to have an investigation. He has already had several hearings, called the four star, excellent Marine four star, from Cencom into a closed door session. They are going to have other hearings, maybe even next month while the Congress is adjourned until the second session starts in January. There will be more hearings on the Senate side in January. I hope to heaven's name we can have hearings on this side to get to the bottom of this and to find out if people who have not yet been confirmed have been part of these decisions.

I say, "Don't tell me that we couldn't have relieved some of the injuries of these men and prevented at least Private Smith's death, and the death of Jimmy Martin, Jr., and the young soldier that died in great pain 3 days later up at Ramstein Air Force Base at Landsthul Hospital."

My time is up, Mr. Speaker, and I thank you for the 1 minute warning.

Those two mountain soldiers could have possibly been saved up there, so, in closing let me put in again for anybody who wants to get these remarks, another anniversary 28 years ago, the Ia Drang Valley and the lessons we should have learned. I ask to put the Ia Drang story of our first major battle, 301 killed in action in Vietnam, and I thank you, Mr. Speaker, and our great staff for allowing me to do this special order.

[From the Army Times, Nov. 15, 1993]

LET'S REMEMBER WHAT VETERANS DID IN THE WARS

(By Emma Pollack)

First, you see the wheelchairs. Some of these chairs are a style propelled by the hand of the occupant. A few have electric motors and are easily set in motion. Others have an electronic device and can be operated with pressure from the chin or mouth. Several chairs are not self-propelled but must be pushed by another human being.

Why this concentration on wheelchairs? Because it is much easier than looking at the people. However, eventually in this outpatient clinic, the veterans take the forefront.

Almost any weekday there are hundreds of people waiting in this large room. They surround you, and the time comes when you cannot blind your eyes nor your mind to their existence. These men and women waiting here for medical treatment are a diverse group from all walks of life—various ages, sizes, races.

Soon you can no longer see them as a mass; your eyes begin to focus on the individual. You discover what they have in common, a certain look. A look that asks: "Why? What has brought me to this place in my life?"

And what is this place? It is a modern hospital for veterans that is staffed with dedicated nurses and doctors—though far too few. This is also a teaching hospital and a nursing home.

An attempt has been made to create an attractive decor, a cheerful atmosphere. Ironically, the color orange has been applied generously to walls, floors, furniture and fixtures. Most of the visible activity takes place in the outpatient clinic. This is where the veterans sit and wait, and wait and wait.

On this particular morning, my husband is here for a series of tests, and I am prepared to spend the day. Although it is not yet 7 a.m., a long line has formed at the check-in counter. The first person in line is an elderly man with sunken eyes, unshaved, frail. His clothes are much too large for his thin body. His hand trembles as he gives his card to the clerk. Briskly, she recites a series of instructions and tells him to sit down. The man takes the seat beside me. He stares helplessly at his appointment card, and I know he is confused.

"Could I be of any help to you?" I explain that I have been here many times. He eagerly hands me his appointment card.

"Shortly, they'll call your name on the loud speaker and give your doctor's room number.' He still seems nervous, uncertain.

"I'll be glad to show you the room . . . this big place can be so confusing." Now, he smiles and begins to relax.

And so the day goes on. I look at these sick, miserable people, so tired of waiting and so often bewildered. My thoughts go back in time.

The year is 1942, and the place is Washington. The streets are filled with the human machinery of war: soldiers, sailors, Coast Guard personnel and Marines. They, like me, are very young. They are looking sharp,

bright-eyed and ready for action. Without complaint, many will soon leave for the fight zones—on the ground, in the air, at sea. These youthful warriors are prepared to fight, to suffer pain and loneliness, and ready to die if need be.

My mind plays tricks on me. The fighting men and women of wars past are moving about in the waiting area. A tall, broad-shouldered Marine is standing beside a wheelchair. The man in the chair has no legs. A sailor in a white, crisp uniform is sitting in the place where, only seconds before, sat a man whose records were lost. The veteran to whom I had offered my help was no longer there. In his place sat a young man in a blue uniform, a pair of silver wings above his heart.

My vision clears, and I see once again the pain and helplessness of those around me. But now, I see so much more.

I see a room filled with heroes.

So often, after the shooting stops, these wartime heroes become little more that an unnecessary expense. The veterans must now pass a means test, must prove their financial need.

The people waiting in this outpatient clinic for medical care are not poor folks asking for a handout—although, indeed, many are poor. When they were young and healthy, they answered the call of their country. Flags waved, bands marched and promises were made. Promises that must not be forgotten.

What do veterans really want? More than anything else, they would like to be treated with dignity and respect. They want the American people to remember what they did in the wars—and why.

This day in the life of these veterans is coming to a close. But tomorrow, the line forms again and the waiting room will be filled once more. I stand still a moment and take one last look around. A voice speaks to me, a call from long ago. "To you from failing hands we throw the torch; be yours to hold it high."

We must keep faith with those who fought to preserve the freedom so cherished by all the world.

(Emma Pollack is recently widowed. Her husband fought in two wars and received his care in VA hospitals. Her father fought in three wars and died in a VA hospital.)

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[From U.S. News & World Reports, Nov. 22, 1993]

TROUBLING EVIDENCE ON VIETNAM POWS

Late on a crisp Washington afternoon, exactly one week before Veterans Day, an unlikely trio stepped into the carpeted White House office of Anthony Lake, President Clinton's national security adviser. One was Carol Hrdlicka, just in from Kansas, the wife of an Air Force pilot who was shot down over Laos in 1965. Next was Barry Toll, a highly decorated Vietnam veteran and former Army intelligence officer. Last was George Carver. A quintessential Washington insider, the 63-year-old Carver had served three directors of the Central Intelligence Agency from 1966 to 1973 as special assistant for Vietnamese affairs.

The group handed Lake a packet of intelligence documents, then sat down to talk. They had a plan endorsed by several veterans groups, the three told Lake, a plan to heal the 20-year-old wounds of the Vietnam War. The evidence they had was from U.S. intelligence files and Soviet archives. It showed, they said, that Vietnam never returned a large number of American prisoners of war—a fact, they insisted, that *both* countries knew at the time. In the packet given to Lake was everything he needed to get the evidence for himself: The U.S. files were identified not just by agency but by room number, file-cabinet serial numbers and drawer numbers. Lake was joined by Kent Wiedemann, the National Security Council officer for Asian affairs. The two made no promises, but they asked good questions. The trio pressed on: The president should appoint a commission to study the evidence from the U.S. and Soviet files and get the Vietnamese to admit to their deeds without recriminations. Only then could there be a final accounting of the prisoners and the missing from the Vietnam conflict. Only then could there be normal relations between the two countries.

Unanswered questions. If Vietnam did hold large numbers of unreturned prisoners, it would be a stunning revelation. The Vietnamese returned 591 American prisoners in Operation Homecoming in the spring of 1973. Since then U.S. official have pretty much agreed with the Nixon administration's contentions that all of the boys had come home. "The U.S. government is confident that the 591 POWs and 30-something bodies of men who died in captivity were all the prisoners held in North Vietnam," says Edward Ross, chief of the Defense Department's office for POW/MIA affairs. Vietnam says the same thing. Separately, the Senate Select Committee on POW/MIA Affairs concluded that there is "no compelling evidence" of live American POWs in Indochina. The panel suggested that if men had been left behind, the numbers were small. Washington has presented Vietnam with a list of 135 cases of missing American servicemen whose fate the Vietnamese should know. With Vietnam's help, that list has been reduced to only 80 unresolved cases.

In the past few months, however, an extraordinary body of evidence has emerged to throw into question all previous estimates of unresolved POW cases from the Vietnam War. The evidence is purely circumstantial, but it has created a burning new argument for families of the missing, while stoking their opposition to Clinton's plan for rapprochement with Vietnam. The developments include the following:

A top-secret document discovered in January in Soviet military archives by Harvard researcher Stephen Morris. The document appears to be a report from a Soviet agent about a 1972 speech before the North Vietnamese Politburo in which a general reveals that North Vietnam is holding 1,205 American prisoners. Since the Vietnamese returned 591 American POWs in 1973—and 109 of them came from South Vietnamese prisons—the document suggests that North Vietnam never returned some 700 American prisoners.

A top-secret report from the Soviet military intelligence agency GRU that was released in September in Russia. In this document, a central committee secretary tells the Vietnam Workers' Party in late 1970 or early 1971 that while "we have published the names of 386" POWs [this was correct], the "total number of American aviator POWs . . . is 735."

A U.S. intelligence report from a high-ranking North Vietnamese official named Tranh Minh Duc, who was a spy for the United States. In his report, Tranh says that shortly after the alleged "1,205 POWs" speech in 1972, the North Vietnamese Politburo decided to detain a number of prisoners to use later as bargainning chips with Washington. Recently, a cable surfaced from old State Department files that tends to support the "1,205" document. The cable refers to a British Labor Party leader named Clive Jenkins, who returned from a visit to Hanoi in October 1970. Vietnamese officials gave Jenkins the "impression" that there were about 900 American POWs in Vietnamese prisons, the State Department cable says.

U.S. News has learned that intelligence files contain references to four other cases in which sources in Indochina reported as many as 800 U.S. prisoners not accounted for in other estimates. One of these sources was a Japanese Buddhist monk who said he had shared a cell with three American servicemen in the mid-1980's. "I called them 'America,' they called me 'Jap,'" the monk said. He added that a Vietnamese security official told him there were 700 to 800 more Americans incarcerated.

Still more evidence tends to suggest that the number of American prisoners was higher than has been acknowledged. To Vietnamese defectors well known to the U.S. intelligence community spoke of large numbers of POWs. One of the defectors, a North Vietnamese army doctor named Dang Tan, was trotted out by the CIA in 1971 to talk of torture of American prisoners. In passing, he mentioned that he believed there were about 800 prisoners held by North Vietnam as long ago as 1967. In 1979, a second defector, a man named Le Dinh, told the U.S. government officials in Paris that while he worked for Vietnamese intelligence he heard at staff meetings that 700 Americans remained incarcerated in Vietnam after the war. Last week, a former North Vietnamese intelligence officer confirmed that number in an interview with U.S. News. He said the prisoners were separated into four groups. There was a large group of disabled prisoners and others approved for release, 11 U.S. intelligence operatives who were to be held for eventual trades for Soviet spies, an underter mined number of men who were to be ransomed for money or used to exert political influence and 33 "progressives," some of whom were given training to operate in the United States as double agents. Six actually undertook such missions, the former intelligence officer says.

Numbers game. Could such stories be true? The answer may lie partly in the Pentagon's counting of the missing. After Vietnam returned the 591 American servicemen in Operation Homecoming, the Pentagon continued to list 2,421 men missing in Indochina. Of those, 1,118 had been declared killed in action during the war. That left 1,303 unaccounted for. About these men, the Pentagon said, it "had no information to show conclusively they are alive or dead." Some believe the survival rate of those 1,303 could have been as high as 50 percent. If the estimate is roughly accurate, it could mean that as many as 650 American servicemen survived the war but remain unaccounted for. The Pentagon's Ed Ross contends that every single case of the missing has been reexamined. That there were large numbers of POWs, he says is impossible.

Air Force Lt. Gen. Eugene Tighe, who ran the Defense Intelligence Agency after the Vietnam War, is not so dismissive. The DIA is the lead government agency on the POW issue. In an interview, Tighe said that many servicemen were listed as killed in action on the flimsiest of evidence. If the evidence was wrong, Tighe said, "you can go through the total number of missing through the whole war and come up with some fairly large numbers" of survivors.

Why might the Vietnamese have detained so many more Americans? Le Quang Khai is

an 11-year veteran of Vietnam's foreign ministry who defected to the United States last year. During the Paris peace talks in 1973, Khai says, political opinion was split in Vietnam on what to do with American prisoners of war. Hard-liners wanted to hold them all until their demands for war reparations were satisfied; liberals wanted to release them to improve Vietnam's image. A compromise was reached to release some POWs—591 turned out to be the number, Khai says. The rest were detained, Khai says, because Vietnam believed that the Paris peace talks marked the beginning—not the end—of negotiations with Washington.

The negotiations went nowhere. President Nixon resigned in 1974, his administration stating that it had "no indication at this moment that there are any Americans alive in Indochina." Concludes Khai: "With no negotiations, there was no framework to return the POWs." Some, Khai says, were given to Hanoi's allies: "It is a fact that some [Americans] were sent to Russia, China and other countries." Some intelligence analysts question Khai's bona fides, but they say his story could be accurate. Says General Tighe: "The Vietnamese, the Russians and Chinese . . . were intensely interested in getting hold of American prisoners."

The evidence that would support such a theory remains elusive. Barry Toll says that from 1973 to 1975 he had access to top-secret messages concerning POWs. Toll says he saw cables concerning the transfer by diplomatic aircraft of 10 to 20 American POWs to the Soviet Union from Hanoi. He says, another message that was "seared in his memory" reported on 290 to 340 American servicemen the Pentagon had identified as prisoners in Laos. This cable, Toll says, concluded that the men had to be abandoned: Washington could not admit to their existence because the Nixon administration had conducted a secret and illegal war there. Toll says he resigned from his Pentagon post in 1975 to protest this abandonment. Investigators on the Senate Select Committee on POW/MIA Affairs say they confirmed Barry Toll's military record and duties as an intelligence officer but were unable to corroborate the specific message traffic.

Proving the case. Others insist the evidence exits. George Carver, who accompanied Toll to the White House meeting with Anthony Lake earlier this month, says that while he was at the CIA, he saw evidence that led him to believe the Vietnamese and Laotians were holding more U.S. prisoners than they admitted. Carver believes the document obtained from the Soviet archives mentioning 1,205 prisoners is authentic. Based on other intelligence Carver has seen, however, he believes there were only about 300 unreturned American prisoners. "I think the case for 300," Carver says, "is almost presentable to a jury."

To prove that case, however, solid evidence is needed to show that the unreturned POW's were held separately from the 591 who were returned. Critics of this "theory of a separate prison system" argue that no one has furnished such proof. John McCain is one skeptic. Now a Republican senator from Arizona, he was a prisoner in Vietnam for 5½ years and heard nothing about separate prison systems. Former Rep. William "billy" Hendon disagrees. A POW activist, Hendon has maps and satellite photos that he says prove several Vietnamese prison camps held large numbers of Americans. No men came back from those camps. Senator BOB SMITH, a New Hampshire Republican who has visited Vietnamese prisons where intelligence reports say Americans were held, agrees with Hendon. "I don't know if anyone is alive today, but I do know that we don't have all the facts." Concludes George Carver: "I want to hope and pray that there are some left alive, that's what my heart tells me. But my head tells me to be cautious. For [the Vietnamese], it might be far better to dispose of the evidence."

Mr. Speaker, November 14 was the anniversary of the beginning of the Ia Drang Campaign where 301 of our men were killed in action.

Many of the issues in the "We Were Soldiers Once . . . and Young" are also relevant to Somalia: Low wages but high risk; Value of airpower/close air support; Value of fire support/artillery; Accounting for all casualties/MIAs on the battlefield; Policy problems in Washington hunting troops in field; and Need for clear military objectives.

Mr. Speaker, here are some important excerpts:

WE WERE SOLDIERS ONCE * * * AND YOUNG

(By Lt. Gen. Harold G. Moore, USA (Ret.) and Joseph L. Galloway)

We went to war because our country asked us to go, because our new President, Lyndon B. Johnson, ordered us to go, but more importantly because we saw it as our duty to go.

Leading us were the sons of West Point and the young ROTC lieutenants from Rutgers and The Citadel and, yes, even Yale University, who had heard Kennedy's call and answered it. There were also the young enlisted men and NCOs who passed through Officer Candidate School and emerged newly minted officers and gentlemen. All laughed nervously when confronted with the cold statistics that measured a second lieutenant's combat life expectancy in minutes and seconds, not hours. Our second lieutenants were paid $241.20 per month.

Many of our countrymen came to hate the war we fought. Those who hated it the most—the professionally sensitive—were not, in the end, sensitive enough to differentiate between the war and the soldiers who had been ordered to fight it. They hated us as well, and we went to ground in the cross fire, as we had learned in the jungles.

This story, then, is our testament, and our tribute to 234 young Americans who died beside us during four days in Landing Zone X-Ray and Landing Zone Albany in the Valley of Death, 1965. That is more Americans than were killed in any regiment, North or South, at the Battle of Gettysburg, and far more than were killed in combat in the entire Persian Gulf War. Seventy more of our comrades died in the Ia Drang in desperate skirmishes before and after the big battles at X-Ray and Albany. All the names, 305 of them including one Air Force pilot, are engraved on the third panel to the right of the apex, Panel 3-East, of the Vietnam Veterans Memorial in Washington, D.C., and on our hearts. This is also the story of the suffering of families whose lives were forever shattered by the death of a father, a son, a husband, a brother in that Valley.

Air Force Captain Bruce Wallace and his fellow A-1E Skyraider pilots, as well as jet fighter-bombers from all three services, helped provide that edge, flying fifty sorties in close air support that Sunday afternoon. Says Wallace, "The importance of airplanes in a vulgar brawl is to be down among the palm trees with the troops, putting ordnance on the ground at the exact time and in the precise place that the ground command needs it."

"It is always an experience for an Air Force pilot to watch a gaggle of Hueys attack a target. We pride ourselves on flexibility of thought, quick response time, ability to react to ever-changing situations, but we are committed to a somewhat linear thought process. In the attack the target is always directly in front of us. Not so with a Huey. To watch four or eight of them at a time maneuvering up and down and laterally and even backward boggles a fighter pilot's mind. Those guys swarm a target like bees over honey. I had to hand it to those Huey guys. They really got down there in the trees with the troops."

The brave cannon-cockers in LZ Falcon went without sleep for three days and nights to help keep us surrounded by a wall of steel. Those two batteries, twelve guns, fired more than four thousand rounds of high-explosive shells on the first day alone. Says Barker, "On the first afternoon both batteries fired for effect [directly on target] for five straight hours." One of Bruce Crandall's Huey slick pilots, Captain Paul Winkel, touched down at Falcon briefly that first after and was astounded by what he saw: "There were stacks of shell casings, one at least 10 feet high, and exhausted gun crews. They had fired for effect for three straight hours by then, without even pausing to level the bubbles. One tube was burned out, two had busted hydraulics. That's some shooting!"

Aside from wanting to make certain that Diduryk and his men did a clean, safe job, I had one other reason for joining the final assault personally. Rick Rescorla watched. "Colonel Moore, in our sector, was rushing up to clumps of bodies, pulling them apart. 'What the hell is the colonel doing up here?' Sergeant Thompson asked. I shook my head. Later we saw him coming back at the head of men carrying ponchos. By 10:30 a.m. Colonel Moore had found what he was looking for. Three dead American troops were no longer missing in action; now they were on their way home to their loved ones."

Among the American advisers on the ground with the South Vietnamese Airborne task force in the Ia Drang Valley that day was a big, burly American major, H. Norman Schwarzkopf, West Point class of 1956. Schwarzkopf remembers that the sudden appearance of the South Vietnamese troops on the North Vietnamese route of withdrawal shocked the enemy battalion.

Major Norm Schwarzkopf watched them go and was disgusted with the U.S. policy that permitted the creation of North Vietnamese sanctuaries across the border in supposedly neutral Cambodia. He was not the only military man in the field who was angered by a policy that tied the hands of the American and South Vietnamese forces.

Major General Harry Kinnard and his boss, Lieutenant General Stanley (Swede) Larsen, both appealed to General Westmoreland and U.S. ambassador Henry Cabot Lodge to do everything in their power to persuade Washington to review and revoke the restrictions on American freedom of action along and across the border.

Both Lodge and Westmoreland requested that review in November 1965; they got back a cable from William Bundy, under secretary for East Asian affairs at the State Department.

Will Bundy's cable said: "This will include authority to U.S./Government of Vietnam

units to return fire, to eliminate fire coming from Cambodia and to maneuver into Cambodian territory as necessary to defend selves while actively engaged in contact with PAVN/VC units. It excludes authority to engage Cambodian forces if encountered, except in self-defense, to conduct tactical air or artillery operations against populated Cambodian areas, or to attack Cambodian base areas."

General Kinnard and the 1st Calvary commanders said even this slight relaxation of the restrictions on hot pursuit into Cambodia was not communicated or explained to them in time to be utilized during the Ia Drang Valley campaign.

Not long after this, orders came down to all the 1st Cavalry Division brigade and battalion commanders that we were never to speculate or suggest to any reporter that the North Vietnamese were using Cambodia as a sanctuary or that they were passing through Cambodia on their way to South Vietnam. This refusal to admit what we knew was true, and what even the newest reporter knew was true, struck all of us as dishonest and hypocritical.

General Kinnard says this was the point at which, under political direction, the American military surrendered the initiative to North Vietnam. What it said to Harry Kinnard was that this war would never end in an American victory. Initiative had been sacrificed to the polite diplomatic fiction that Cambodia was sovereign and neutral and in control of its territory.

"Only the dead have seen the end of war."—Plato.

But on November 18, 1965, in the sleepy southern town of Columbus, Georgia, half a world away from Vietnam, the first of the telegrams that would shatter the lives of the innocents were already arriving from Washington. The war was so new and the casualties to date so few that the Army had not even considered establishing the casualty-notification teams that later in the war would personally deliver the bad news and stay to comfort a young widow or elderly parents until friends and relatives could arrive. In Columbus, in November and December 1965, Western Union simply handed the telegrams over to Yellow Cab drivers to deliver.

There was one man in a position of power in Washington that fall who knew that the name of the game had changed in Vietnam. Secretary of Defense McNamara was on a trip to Europe when President Johnson asked him to return home by way of Saigon for first-hand briefings on the Ia Drang battles. McNamara talked with Ambassador Lodge and General Westmoreland in Saigon, and then flew to the An Khe base camp for briefings by General Harry Kinnard and myself.

In mid-December, President Johnson convened a White House meeting of his top advisers. Will Bundy says that McNamara's option number one—get the hell out of Vietnam now, while the getting is good—was never seriously considered nor was it pressed by McNamara. Option number two—the huge buildup of American combat and support troops—was readily approved by all, including McNamara. Ever the numbers cruncher, McNamara told the gathering, "The military solution to the problem is not certain; [the odds of success are] one out of three, or one in two." McNamara did push for a bombing pause to prepare U.S. public opinion for the coming escalation.

Those of us who commanded American soldiers in the opening days had already undergone one crisis of confidence in the political leadership's commitment to the struggle when President Johnson refused to extend enlistments and sent us off to war sadly understrength and minus many of our best-trained men. Now, in the wake of the Ia Drang, American political determination was tested again, and again found waiting.

General Kinnard says: "I was always taught as an officer that in a pursuit situation you continue to pursue until you either kill the enemy or he surrenders. I saw the Ia Drang as a definite pursuit situation and I wanted to keep after them. Not to follow them into Cambodia violated every principle of warfare. I was supported in this by both the military and civilian leaders in Saigon. But the decision was made back there, at the White House, that we would not be permitted to pursue into Cambodia. It became perfectly clear to the North Vietnamese that they then had sanctuary; they could come when they were ready to fight and leave when they were ready to quit."

Will Bundy was then assistant secretary of state. Of that period and that decision, he says, "I suppose from a strictly military point of view, going into Cambodia would have been a net plus. But there was a good deal more at stake. We were trying to preserve a facade of Cambodian neutrality.

A lovely six-year-old girl was bloody from a shrapnel wound. She was the same age as my daughter Cecile, back home. I summoned the medics, but I left there heartsick. None of us had joined the Army to hurt children and frighten peaceful farm families.

One more fatal flaw in American policy soon began to bite hard. Largely in order to pacify the public and to demonstrate that so powerful a nation as the United States was hardly troubled by this distant police action, the Johnson administration decreed that the tour of duty for American troops would be twelve months (thirteen for the hard-luck Marines). No citizen-soldier would have to stay in Vietnam a day longer. Those who had survived and learned how to fight in this difficult environment began going home in the summer of 1966; with them went all their experience and expertise. Replacing them was an army of new draftees, which in due course would be replaced by newer draftees. The level of training drifted ever lower as the demand for bodies grew.

Some of us learned that Clausewitz had it right 150 years earlier when he wrote these words:

"No one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war and how he intends to conduct it."

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 60 minutes, today.

Mr. HORN, for 60 minutes each day, on November 20, 21, and 22.

Mr. KASICH, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Mr. SKELTON, for 5 minutes each day, on November 21 and 22.

Mr. FALEOMAVAEGA, for 60 minutes, on November 21.

Mr. HOYER, for 30 minutes, on November 21.

Mr. PICKLE, for 30 minutes each day, on November 21 and 22.

Mr. POSHARD, for 60 minutes, on November 21.

## SENATE BILLS, A JOINT RESOLUTION, AND CONCURRENT RESOLUTIONS REFERRED

Bills, a joint resolution and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 486. An act to reorganize the Federal administrative law judiciary, and for other purposes, to the Committee on the Judiciary.

S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes, to the Committee on Government Operations and House Administration.

S. 1501. An act to repeal certain provisions of law relating to trading with Indians, to the Committee on the Judiciary.

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, for other purposes, to the Committee on Foreign Affairs.

S. 1732. An act to extend arbitration under the provisions of chapter 44 of title 28, United States Code, and for other purposes, to the Committee on the Judiciary.

S.J. Res. 140. Joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day" to the Committee on Post Office and Civil Service.

S. Con. Res. 44. Concurrent resolution to express the sense of the Congress concerning the International Year of the World's Indigenous Peoples, to the Committee on Foreign Affairs.

S. Con. Res. 50. Concurrent resolution concerning Arab League boycott of Israel, to the Committee on Foreign Affairs.

## ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 941. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 3161. An act to make technical amendments necessitated by the enactment of the Older Americans Act Amendments of 1992, and for other purposes.

## SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolution of the Senate of the following title:

S. 433. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes.

S. 1667. An act to extend authorities under the Middle East Peace Facilitation Act of 1993 by 6 months.

S.J. Res. 55. Joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

S.J. Res. 75. Joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

S.J. Res. 122. Joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

## ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the house do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Sunday, November 21, 1993, at 2 p.m.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 783. A bill to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; with an amendment (Rept. 103-387). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 897. A bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; with amendments (Rept. 103-388). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3098. A bill to amend title 18, United States Code, to prohibit the possession of a handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile; with an amendment (Rept. 103-389). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3378. A bill to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes (Rept. 103-390). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2144. A bill to provide for the transfer of excess land to the Government of Guam, and for other purposes; with an amendment (Rept. 103-391, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 324. A bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision; with an amendment (Rept. 103-392). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1237. A bill to establish procedures for national criminal background checks for child care providers; with an amendment (Rept. 103-393). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3515. A bill to amend the Egg Research and Consumer Information Act, the Watermelon Research and Promotion Act, and the Lime Research, Promotion, and Consumer Information Act of 1990 to revise the operation of these Acts and to authorize the establishment of a fresh-cut flowers and fresh-cut greens promotion and consumer information program for the benefit of the floricultural industry, and for other purposes; with an amendment (Rept. 103-394). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1133. A bill to combat violence and crimes against women; with an amendment (Rept. 103-395). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAMILTON: Committee on Foreign Affairs. H.R. 3221. A bill to provide for the adjudication of certain claims against the Government of Iraq; with an amendment (Rept. 103-396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of conference. Conference report on H.R. 2202. A bill to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer (Rept. 103-397). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2921. A bill to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities; with an amendment (Rept. 103-398). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 486. A bill to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri; with an amendment (Rept. 103-399). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2947. A bill to extend for an additional 2 years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial; with amendments (Rept. 103-400). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 1645. A bill to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States; with an amendment (Rept. 103-401). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 319. Resolution providing for consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes (Rept. 103-402). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 320. Resolution providing for consideration of the bill (H.R. 3400) to provide a more effective, efficient, and responsive government (Rept. 103-403). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KILDEE (for himself and Mr. GOODLING):

H.R. 3580. A bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes; to the Committee on Education and Labor.

By Mr. SAWYER:

H.R. 3581. A bill to amend the Child Nutrition Act of 1966 to improve, promote, and expand the school breakfast program under that act; to the Committee on Education and Labor.

By Ms. WOOLSEY:

H.R. 3582. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve and expand the school lunch and related programs under those acts; to the Committee on Education and Labor.

By Ms. DANNER (for herself, Mr. EMERSON, Mr. VOLKMER, Mr. SKELTON, and Mr. COSTELLO):

H.R. 3583. A bill to make certain non-Federal levees eligible for assistance under the Federal levee rehabilitation program, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CHAPMAN (for himself, Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. GEKAS, and Mr. BREWSTER):

H.R. 3584. A bill to encourage each State to adopt truth-in-sentencing laws and to help fund additional spaces in the State correctional programs as needed; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. PICKLE:

H.R. 3585. A bill to amend title II of the Social Security Act to assure that the Social Security System remains viable for the baby boom generation and that the level of Social Security taxation remains affordable for their children; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 3586. A bill to amend laws relating to defense acquisition, including provisions relating to the formation of contracts, contract administration and major system management, procurement of information management systems and commercial activity contracting, the small purchase threshold, intellectual property rights, defense trade and cooperation, and the acquisition of commercial items; jointly, to the Committees on Armed Services, Government Operations, and Small Business.

By Mr. DOOLITTLE (for himself, Mr. CHAPMAN, and Mr. GUNDERSON):

H.R. 3587. A bill to require the Federal Communications Commission to amend the program exclusivity and nonduplication rules relating to cable television system blackouts to permit carriage of network programming from broadcasts within the same State; to the Committee on Energy and Commerce.

By Mr. GOODLING:

H.R. 3588. A bill to amend the Child Abuse Prevention and Treatment Act to require a

State, in order to be eligible for a grant for child abuse and neglect prevention and treatment programs, to have in effect a State law providing for the prosecution of a person who makes a report of child abuse or neglect without having a reasonable belief that the report is true, and for other purposes; to the Committee on Education and Labor.

By Mr. McCRERY (for himself, Mr. LIVINGSTON, Mr. TAUZIN, Mr. BAKER of Louisiana, Mr. HAYES, and Mr. JEFFERSON):

H.R. 3589. A bill to designate the lock and dam numbered 4 on the Red River Waterway in Louisiana as the "Russell B. Long Lock and Dam"; to the Committee on Public Works and Transportation.

By Mrs. MORELLA:

H.R. 3590. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980; jointly, to the Committees on Science, Space, and Technology and the Judiciary.

By Mr. PENNY:

H.R. 3591. A bill to amend title II of the Social Security Act to provide for a gradual increase by the year 2030 in the normal retirement age and the early retirement age to ages 70 and 67, respectively; to the Committee on Ways and Means.

H.R. 3592. A bill to amend title II of the Social Security Act to provide for cost-of-living increases based solely on the percentage increase in the Consumer Price Index and for the establishment of a single annual cost-of-living increase in primary insurance amounts at a uniform flat rate; jointly, to the Committees on Ways and Means, Veterans' Affairs, and Energy and Commerce.

By Mr. REGULA (for himself, Mr. SAWYER, Mr. STOKES, Mr. HOBSON, Mr. GILLMOR, Mr. BROWN of Ohio, Mr. HOKE, Mr. HALL of Ohio, Mr. FINGERHUT, Mr. APPLEGATE, Mr. TRAFICANT, Ms. KAPTUR, Ms. PRYCE of Ohio, Mr. PORTMAN, and Mr. OXLEY):

H.R. 3593. A bill to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio as an affiliated area of the National Park System; to the Committee on Natural Resources.

By Mr. SANGMEISTER:

H.R. 3594. A bill to prohibit direct Federal financial benefits and unemployment benefits to illegal aliens; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. SANTORUM:

H.R. 3595. A bill to prohibit the possession of a handgun by, and the transfer of a handgun to, a minor, with certain exceptions; to the Committee on the Judiciary.

By Mr. SAXTON (for himself and Mr. CARDIN):

H.R. 3596. A bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health of research centers regarding movement disorders; to the Committee on Energy and Commerce.

By Mr. SAXTON:

H.R. 3597. A bill to conduct a demonstration project which permits traditional wildlife-related uses on lands acquired for the Edwin B. Forsythe Wildlife Refuge until a public use management plan for those lands is adopted; to the Committee on Merchant Marine and Fisheries.

By Ms. SCHENK:

H.R. 3598. A bill to amend the South Pacific Tuna Act of 1988 to provide for duty-free treatment of canned tuna imported into the United States that was caught by certain vessels and processed in certain facilities; to the Committee on Ways and Means.

H.R. 3599. A bill to provide for the transfer of certain tuna fishing vessels documented in the United States to foreign registry; to the Committee on Merchant Marine and Fisheries.

By Mr. GEPHARDT (for himself, Mr. BONIOR, Mr. HOYER, Mr. FAZIO, Mrs. KENNELLY, Mr. LEWIS of Georgia, Mr. RICHARDSON, Mr. DINGELL, Mr. ROSTENKOWSKI, Mr. FORD of Michigan, Mr. WAXMAN, Mrs. COLLINS of Illinois, Mr. STARK, Mr. WILLIAMS, Mr. CLAY, Mr. BROOKS, Mr. MOAKLEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS of Maine, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BILBRAY, Mr. BLACKWELL, Mr. BORSKI, Mr. BROWN of California, Ms. BROWN of Florida, Mr. CARDIN, Mr. CLYBURN, Mr. COYNE, Mr. DE LUGO, Ms. DELAURO, Mr. DEUTSCH, Mr. DICKS, Mr. DIXON, Mr. DURBIN, Mr. EDWARDS of California, Mr. ENGEL, Ms. ENGLISH of Arizona, Ms. ESHOO, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. GIBBONS, Mr. HASTINGS, Mr. HILLIARD, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Mr. KREIDLER, Mr. LAFALCE, Mr. LANTOS, Mr. LEVIN, Ms. LONG, Mr. MARTINEZ, Mr. MATSUI, Ms. MCKINNEY, Mrs. MEEK, Mr. MINGE, Mrs. MINK, Mr. MURPHY, Mr. MURTHA, Ms. NORTON, Mr. OBERSTAR, Mr. OBEY, Mr. OWENS, Mr. PASTOR, Mr. PAYNE of New Jersey, Mr. RAHALL, Mr. RANGEL, Mr. REYNOLDS, Mr. ROMERO-BARCELO, Mr. RUSH, Mr. SABO, Mr. SAWYER, Mr. SCOTT, Mr. SERRANO, Ms. SHEPERD, Mr. SKAGGS, Ms. SLAUGHTER, Mr. SMITH of Iowa, Mr. STOKES, Mr. STRICKLAND, Mr. STUDDS, Mr. SWIFT, Mr. SYNAR, Mr. THORNTON, Mrs. THURMAN, Mr. TRAFICANT, Mr. UNDERWOOD, Mrs. UNSOELD, Mr. VENTO, Mr. WATT, Mr. WHEAT, Mr. WISE, and Mr. YATES):

H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; jointly, to the Committee on Energy and Commerce, to the Committee on Ways and Means, and to the Committee on Education and Labor for consideration of such provisions in titles I, III, VI, VII, X, and XI as fall within its jurisdiction pursuant to clause 1(g) of rule X; and concurrently, for a period ending not later than two weeks after all three committees of joint referral report to the House (or a later time if the Speaker so designates), to the Committee on Armed Services for consideration of subtitle A of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(c) of rule X, to the Committee on Veterans' Affairs for consideration of subtitle B of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(u) of rule X, to the Committee on Post Office and Civil Service for consideration of subtitle C of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(o) of rule X, to the Committee on Natural Resources for consideration of subtitle D of title VIII and such provisions of title I as fall within its jurisdiction pursuant to clause 1(n) of rule X, to the Committee on the Judiciary for consideration of subtitles C through F of title V and such other provisions as fall within its jurisdiction pursuant to clause 1(l) of rule X, to the Committee on Rules for consideration of sections 1432(d), 6006(f), and 9102(e)(5), and to the Committee on Government Operations for consideration of subtitle B of title V and section 5401.

By Ms. SCHENK:

H.R. 3601. A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to issue a discharge permit that modifies the total suspended solids and biochemical oxygen demand requirements with respect to the discharge of waste water effluent into the ocean from certain publicly owned treatment works if a water reclamation program is being implemented, and for other purposes; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. BUNNING (for himself, Mr. HUTTO, Mr. MONTGOMERY, Mr. EMERSON, Mr. WOLF, Ms. SNOWE, Mr. MCCLOSKEY, Mr. CHAPMAN, Mr. SPRATT, and Mr. HILLIARD):

H. Con. Res. 185. Concurrent resolution expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay round multilateral trade negotiations and that the imposition of quotas by Canada on United States processed chicken violates article XI of the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. JACOBS introduced a bill (H.R. 3602) for the relief of Sara Lou Hendricks; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. ANDREWS of Maine.

H.R. 44: Mr. FRANKS of Connecticut.

H.R. 93: Mr. BEREUTER, Mr. CONDIT, and Mr. MATSUI.

H.R. 324: Mr. POMEROY and Mr. STRICKLAND.

H.R. 515: Ms. MARGOLIES-MEZVINSKY.

H.R. 794: Mr. LIVINGSTON.

H.R. 899: Mr. PARKER.

H.R. 1015: Mr. ROMERO-BARCELO.

H.R. 1056: Mr. COLEMAN, Mr. CRAPO, Mr. POMEROY, and Mr. JOHNSTON of Florida.

H.R. 1122: Mrs. FOWLER.

H.R. 1126: Mr. GOODLATTE and Mrs. FOWLER.

H.R. 1130: Mr. GOODLATTE and Mrs. FOWLER.

H.R. 1133: Mr. QUINN.

H.R. 1349: Mr. HUTCHINSON, Mr. BLUTE, Mr. SAXTON, and Mr. QUINN.

H.R. 1392: Mr. LINDER.

H.R. 1455: Mr. STUDDS.

H.R. 1518: Mr. GOODLATTE.

H.R. 1605: Mr. LINDER.

H.R. 1606: Mr. LINDER.

H.R. 1608: Mr. RICHARDSON.

H.R. 1738: Ms. LONG and Mr. BREWSTER.

H.R. 1785: Mr. STEARNS.

H.R. 2019: Ms. FURSE.

H.R. 2031: Mr. WILLIAMS.

H.R. 2035: Mr. ZIMMER.

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H.R. 2036: Mr. ZIMMER and Mr. KLUG.
H.R. 2037: Mr. ZIMMER and Mr. KLUG.
H.R. 2259: Mr. HERGER of California.
H.R. 2365: Mr. FINGERHUT, Mr. KLUG, and Mr. MINGE.
H.R. 2488: Mr. KOPETSKI.
H.R. 2572: Ms. MCKINNEY.
H.R. 2600: Mr. GEJDENSON.
H.R. 2641: Mr. FILNER, Mr. BERMAN, and Mr. GENE GREEN of Texas.
H.R. 3030: Mr. ARMEY.
H.R. 3098: Mr. HASTERT.
H.R. 3182: Mr. LEVIN.
H.R. 3235: Mr. WYNN, Mr. TORRES, and Mr. MINGE.
H.R. 3328: Mrs. MORELLA.
H.R. 3342: Mr. GENE GREEN of Texas, Mr. DEFAZIO, Mr. UPTON, Mr. SCHUMER, Mr. GUTIERREZ, Mr. GEPHARDT, Mr. BREWSTER, Mr. FAZIO, Mr. GINGRICH, Mr. DOOLITTLE, Mr. KINGSTON, Mr. SENSENBRENNER, Mr. PETRI, Mr. BACHUS of Alabama, Mr. GILLMOR, Ms. LONG, Mr. PETE GEREN of Texas, Mr. RANGEL, Ms. SCHENK, Mr. ANDREWS of Maine, Mr. ABERCROMBIE, Mr. INSLEE, Mr. EDWARDS of Texas, Mr. SMITH of Texas, Mr. CRANE, Mr. EMERSON, Mr. DIAZ-BALART, Mr. BILIRAKIS, Mrs. ROUKEMA, Mr. SPRATT, Mr. THOMAS of California, Mr. POSHARD, Mr. WYNN, Ms. ROS-LEHTINEN, Mr. CHAPMAN, Mr. JOHNSON of South Dakota, Mr. STUDDS, Mr. DELLUMS, Mr. SWETT, Mr. WHEAT, Ms. PRYCE of Ohio, Mr. FARR, Mr. TAUZIN, Mr. REYNOLDS, Mrs. KENNELLY, Mr. ROSE, Mr. HOKE, Mr. LINDER, Mr. WATT, Mr. ZIMMER, Mr. BRYANT, Mr. BONIOR, Mr. RUSH, Mr. PALLONE, Mr. WAXMAN, Mr. KENNEDY, Mr. KING, Mr. REED, and Mr. KILDEE.
H.R. 3360; Mr. QUINN, Mr. HOEKSTRA, Mr. DELLUMS, Mr. UPTON, Mr. VENTO, and Mr. HUGHES,
H.R. 3393: Mr. FRANK of Massachusetts, Mr. BACHUS of Alabama, Mr. BLUTE, Mr. JACOBS, and Mrs. SCHROEDER.
H.R. 3429: Mr. EWING.
H.R. 3431: Mr. SWETT, Mr. MATSUI, and Mr. BALLENGER.
H.R. 3435: Ms. SHEPHERD, Ms. FURSE, and Mr. ROMERÓ-BARCELÓ.
H.R. 3449: Mr. FISH.
H.R. 3457: Mr. HINCHEY, Mr. SHAYS, and Mrs. MALONEY.
H.R. 3472: Mrs. THURMAN, Mr. FISH, Mr. SAXTON, Mr. MICA, Mr. TRAFICANT, and Mr. GILLMOR.
H.R. 3474: Mr. POMEROY and Mr. STRICKLAND.
H.R. 3490: Mr. TOWNS.
H.R. 3546: Mr. RICHARDSON and Mr. WHITTEN.
H.J. Res. 90: Mr. ENGEL.
H.J. Res. 113: Mr. GILMOR and Mr. SMITH of New Jersey.
H. Con. Res. 148: Mr. LANCASTER.
H. Res. 234: Mrs. MORELLA, Mr. CHAPMAN, and Mr. SKEEN.
H. Res. 266: Mr. LIGHTFOOT, Mr. QUINN, Mr. GREENWOOD, Mrs. MEYERS of Kansas, Mr. STENHOLM, Mr. SCHIFF, and Mr. BALLENGER.
H. Res. 308: Mr. GOSS.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 118: Mr. FILNER.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3400

By Mr. PENNY of Minnesota:

—Strike all after the enacting clause and insert the following:

**SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Common Cents Deficit Reduction Act of 1993".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—NATIONAL SECURITY

Sec. 101. Sense of Congress on increased burden sharing by allies of the United States.
Sec. 102. Streamlining and reorganization of Corps of Engineers.
Sec. 103. Rescission of certain defense add-ons.
Sec. 104. Rescission of funds for MK-19 grenade launcher program.
Sec. 105. Termination of C-26 aircraft program.
Sec. 106. Termination of mobile in-shore undersea warfare vans program.
Sec. 107. Rescission of certain defense operation and maintenance funds.
Sec. 108. Reduction in Public Law 480 Food for Peace Program.
Sec. 109. Rescission of funds for World Bank.
Sec. 110. Reduction in funding for International Development Association.
Sec. 111. Rescission of funds for foreign military financing.
Sec. 112. Rescission of funds for Agency for International Development, Department of state, and United States Information Agency.

TITLE II—PHYSICAL CAPITAL, NATURAL RESOURCES, AND SCIENCE

Sec. 201. Termination of spacelifter program.
Sec. 202. Department of Science, Space, Energy and Technology.
Sec. 203. Elimination of funding for MagLev prototype development program.
Sec. 204. Rescission of funds for federally sponsored university research and development.
Sec. 205. Recoupment of certain grants.
Sec. 206. Coverage of federally funded research and development centers by Competition in Contracting Act.
Sec. 207. Termination of modular high temperature gas reactor project.
Sec. 208. Department of Energy Facilities Closure and Reconfiguration Commission.
Sec. 209. Rescission of funds for fusion energy research and development.
Sec. 210. Rescission of funds for fossil energy research and development.
Sec. 211. Alaska Power Administration sale.
Sec. 212. Federal-private cogeneration of electricity.
Sec. 213. Termination of clean coal technology program.
Sec. 214. Rescission of funds from SPR petroleum account.
Sec. 215. Study of termination of helium subsidy.
Sec. 216. Rescission of funds for low-priority water projects.
Sec. 217. Preference for interim measures in Superfund response actions.
Sec. 218. Reservation of funds for disaster relief.
Sec. 219. Elimination of Weather Office closure certification procedures.
Sec. 220. Rescission of funds for NOAA research fleet.
Sec. 221. Rescission of funds for NOAA add-ons.
Sec. 222. Study concerning merger of Bureau of Reclamation and United States Army Corps of Engineers.
Sec. 223. Rescission of funds for agriculture building and facilities account.
Sec. 224. Repeal of authorizations for the airway science program, collegiate training initiative, and air carrier maintenance technician training facility grant program.
Sec. 225. Repeal of national recreational trails program.
Sec. 226. Rescission of funds for EDA.
Sec. 227. Elimination of funding for public telecommunications facilities.
Sec. 228. Moratorium on construction and acquisition of new Federal buildings.

TITLE III—GOVERNMENT MANAGEMENT

Sec. 301. Government information dissemination and printing improvement.
Sec. 302. Sense of Congress regarding reorganization of Bureau of Indian Affairs.
Sec. 303. Rescission of funds for printing and reproduction and for supplies and materials.
Sec. 304. Streamlining of Department of Housing and Urban Development.
Sec. 305. Termination of Interstate Commerce Commission.
Sec. 306. Rescission of funds from Tennessee Valley Authority Fund.
Sec. 307. Rescission of funds for Appalachian Regional Commission.
Sec. 308. Improvements to managment of veterans' hospitals.
Sec. 309. Rescission of funds for Legal Services Corporation.
Sec. 310. Termination State Justice Institute.
Sec. 311. Improvement of U.S. Marshals Service.
Sec. 312. Rescission of funds for BATF.
Sec. 313. Rescission of funds for construction of new Federal offices and courthouses.
Sec. 314. Limitation on office equipment and furnishings purchases by departing Members of House of Representatives.
Sec. 315. Rescission of funds for Executive Office of the President.
Sec. 316. Rescission of funds for Legislative Branch.
Sec. 317. Rescission of funds for House franking.
Sec. 318. Provisions relating to annual pay adjustments for Members of Congress.
Sec. 319. SES annual leave accumulation.
Sec. 320. Reduction of Federal full-time equivalent positions.
Sec. 321. Rescission of funds for travel accounts.
Sec. 322. Termination of Federal advisory committees.
Sec. 323. Increase in threshold for application of Davis-Bacon Act.
Sec. 324. Elimination of certain reports required on contracts covered by Davis-Bacon Act.
Sec. 325. Fees for applications for alcohol labeling and formula reviews.
Sec. 326. Increase in SEC registration fees.
Sec. 327. Travel, tourism, and export promotion fees.

TITLE IV—HUMAN RESOURCES

Sec. 401. Reduction in funding for arts and humanities programs.

Sec. 402. Elimination of operating subsidies for vacant public housing.
Sec. 403. Substitution of voucher assistance for public housing new construction.
Sec. 404. Reform of HUD multifamily property disposition.
Sec. 405. Termination of annual direct grant assistance.

TITLE V—SOCIAL SERVICES AND RETIREMENT

Sec. 501. Increase in retirement age under FERS to 65.
Sec. 502. Provision relating to Government contributions to the Thrift Savings Plan.
Sec. 503. Deferral until age 62 of cost-of-living adjustments for military retirees who first entered military service on or after January 1, 1994.
Sec. 504. Consolidation of certain social services programs into a single block grant program.
Sec. 505. Awards of Pell grants to prisoners prohibited.
Sec. 506. Elimination of education programs that have largely achieved their purpose.

TITLE VI—AGRICULTURE AND HEALTH CARE

Sec. 601. Department of Agriculture reorganization.
Sec. 602. Reduction in triple base for deficiency payments for basic agricultural commodities under agriculture programs.
Sec. 603. Imposition of 20 percent coinsurance on clinical laboratory services under Medicare.
Sec. 604. Imposition of 20 percent coinsurance on home health services under Medicare.
Sec. 605. Relating Medicare part B premium to income for certain high income individuals.
Sec. 606. Increase in Medicare hospital insurance deductible for certain high-income individuals.
Sec. 607. Establishment of standard payment rates for home health services.
Sec. 608. Eliminating Federal support for honey.

TITLE VII—ENFORCEMENT

Sec. 701. Dedication of savings to deficit reduction.

## TITLE I—NATIONAL SECURITY

### SEC. 101. SENSE OF CONGRESS ON INCREASED BURDEN SHARING BY ALLIES OF THE UNITED STATES.

(a) DEFENSE COST-SHARING AGREEMENTS.—It is the sense of Congress that the President should enter into negotiations with each foreign nation referred to in subsection (b)(1) that is not excluded by subsection (b)(2) to seek to conclude an agreement that provides for such nation to pay at least 50 percent of the overseas basing costs that are incurred for the stationing of members of the Armed Forces of the United States and related civilian employees of the Department of Defense in that nation as a result of the implementation of a bilateral or multilateral defense agreement with that nation.

(b) COVERED FOREIGN NATIONS.—(1) Except as provided in paragraph (2), subsection (a) applies with respect to the following foreign nations:

(A) Each member nation of the North Atlantic Treaty Organization (other than the United States).

(B) Every other foreign nation with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty ashore in that nation.

(2) Subsection (a) does not apply with respect to any foreign nation—

(A) that receives assistance or financing under—

(i) section 23 of the Arms Export Control Act (22 U.S.C. 2763), relating to the foreign military financing program; or

(ii) the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

(B) in which not more than 1,000 members of the Armed Forces of the United States and related civilian employees of the Department of Defense are assigned to permanent duty ashore as a result of the implementation of a bilateral or multilateral defense agreement; or

(C) that has agreed to assume, not later than January 1, 1995, at least 50 percent of the overseas basing costs of the United States in that nation.

(c) USE OF FUNDS FOR PAYING OVERSEAS BASING COSTS.—(1) It is the sense of Congress that funds should not be expended to pay more than the allowable percent of the overseas basing costs that are incurred during a fiscal year referred to in paragraph (2) for the stationing of members of the Armed Forces of the United States and related civilian employees of the Department of Defense in a nation referred to in subsection (a) as a result of the implementation of a bilateral or multilateral defense agreement with that nation.

(2) For purposes of paragraph (1), the allowable percent for a fiscal year is as follows:

(A) For fiscal year 1995, 84 percent.

(B) For fiscal year 1996, 75 percent.

(C) For fiscal year 1997, 60 percent.

(D) For each fiscal year that begins after September 30, 1997, 50 percent.

(d) OVERSEAS BASING COSTS DEFINED.—In this section, the term "overseas basing costs" means all costs related to the operation of installations in foreign countries at which forces of the Armed Forces of the United States are based, as determined by the Secretary of Defense using the methodology used in preparing the "Fiscal Year 1994 Budget Estimate, Department of Defense", dated April 1993, and the "Report on Allied Contributions to the Common Defense", dated May 1993. The term—

(1) includes, among other costs—

(A) pay for foreign nationals;

(B) costs of utilities;

(C) costs of local services;

(D) costs of military construction projects;

(E) costs of real property maintenance;

(F) costs of environmental restoration;

(G) leasing costs;

(H) taxes;

(I) user fees;

(J) tolls; and

(K) import duties;

(2) does not include—

(A) the rent value of land or facilities provided to the United States by foreign nations covered by this section in excess of amounts actually paid by such nations to private owners of such land or facilities; and

(B) revenue foregone by foreign nations covered by this section in providing rent-free land or facilities to the United States; and

(3) does not include the pay and allowances of members of the Armed Forces of the United States and civilian employees of the Department of Defense.

### SEC. 102. STREAMLINING AND REORGANIZATION OF CORPS OF ENGINEERS.

The Secretary of the Army shall reorganize the United States Army Corps of Engineers by reorganizing the headquarters offices, reducing the number of division offices from 11 to not more than 6, and restructuring the district functions so as to increase the efficiency of the United States Army Corps of Engineers and reduce staff and costs, to achieve at least $50,000,000 in net annual savings by fiscal year 1998.

### SEC. 103. RESCISSION OF CERTAIN DEFENSE ADD-ONS.

(a) MILITARY CONSTRUCTION.—Of the funds made available under the heading "Military Construction, Army Reserve" in the Military Construction Appropriations Act, 1994 (Pub. L. 103-110), $15,000,000 is rescinded, to be derived from the Georgia-Fort McPherson Command Headquarters, Phase I, project.

(b) DEFENSE PROCUREMENT.—Of the funds made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139), the following amounts are rescinded from the following accounts and programs:

(1) "Other Procurement, Army", $15,000,000, to be derived from common hardware and software.

(2) "Other Procurement, Navy", $30,000,000, to be derived from spare and repair parts.

(3) "Other Procurement, Navy", $12,000,000, to be derived from weapons range support equipment.

(4) "Other Procurement, Army", $10,000,000, to be derived from tactical trailers/dolly sets.

(5) "Shipbuilding and Conversion, Navy", $50,000,000, to be derived from advance procurement of LHD-7.

### SEC. 104. RESCISSION OF FUNDS FOR MK-19 GRENADE LAUNCHER PROGRAM.

Of the funds made available under the heading "Procurement of Weapons and Tracked Combat Vehicles, Army" in the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139), $15,000,000 is rescinded, to be derived from the MK-19 automatic grenade launcher program.

### SEC. 105. TERMINATION OF C-26 AIRCRAFT PROGRAM.

The Secretary of Defense shall cancel the C-26 aircraft program. Funds appropriated for the Department of Defense may not be obligated after the date of the enactment of this Act for procurement of new aircraft under that program other than for contract termination or cancellation costs.

### SEC. 106. TERMINATION OF MOBILE IN-SHORE UNDERSEA WARFARE VANS PROGRAM.

The Secretary of Defense shall cancel the Mobile In-Shore Undersea Warfare Vans program. Funds appropriated for the Department of Defense may not be obligated after the date of the enactment of this Act for procurement under that program other than for contract termination or cancellation costs.

### SEC. 107. RESCISSION OF CERTAIN DEFENSE OPERATION AND MAINTENANCE FUNDS.

Of the funds made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139), the following amounts are rescinded from the following accounts:

(1) "Operation and Maintenance, Army", $88,020,000 to be derived from general reduction DBOF, and $15,180,000 to be derived from inventories.

(2) "Operation and Maintenance, Navy", $109,270,000 to be derived from general reduction DBOF, and $27,555,000 to be derived from inventories.

(3) "Operation and Maintenance, Air Force", $94,140,000 to be derived from general

reduction DBOF, and $12,265,000 to be derived from inventories.

**SEC. 108. REDUCTION IN PUBLIC LAW 480 FOOD FOR PEACE PROGRAM.**

(a) IN GENERAL.—Section 103 of title I of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end the following:

"(f) MODIFICATION OF TERMS AND CONDITIONS DURING CERTAIN YEARS.—The Secretary shall set the terms and conditions of agreements entered into under this title after the date of the enactment of this subsection so that—

"(1) the length of the loan does not exceed 20 years;

"(2) the length of the grace period does not exceed 5 years;

"(3) the interest rate during the grace period is not less than 3 percent; and

"(4) the interest rate during the payback period is not less than 5 percent.".

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "Public Law 480 Program Account" in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-111)—

(1) $69,378,000 is rescinded from the amounts provided for programs under title I of the Agricultural Trade Development and Assistance Act of 1954 and the Food for Progress Act of 1985; and

(2) $56,017,000 is rescinded from the amount provided for commodities supplied in connection with dispositions abroad pursuant to title III of the Agricultural Trade Development and Assistance Act of 1954.

**SEC. 109. RESCISSION OF FUNDS FOR WORLD BANK.**

Of the funds made available under the heading "Contribution to the International Bank for Reconstruction and Development" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103-87)—

(1) $27,910,500 provided for paid-in capital is rescinded; and

(2) $902,439,500 provided for callable capital is rescinded.

**SEC. 110. REDUCTION IN FUNDING FOR INTERNATIONAL DEVELOPMENT ASSOCIATION.**

(a) IN GENERAL.—Section 526 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103-87) is amended by inserting before the period at the end ", of which not more than $957,142,857 shall be available for fiscal year 1994, and not more than $957,142,857 shall be available for fiscal year 1995".

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "Contribution to the International Development Association" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103-87), $67,189,143 is rescinded.

**SEC. 111. RESCISSION OF FUNDS FOR FOREIGN MILITARY FINANCING.**

Of the funds made available under the heading "Foreign Military Financing Program" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Pub. L. 103-87), $25,721,000 is rescinded, to be derived from grants.

**SEC. 112. RESCISSION OF FUNDS FOR AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE, AND UNITED STATES INFORMATION AGENCY.**

(a) AID.—Of the funds made available under the heading "Agency for International Development—Development Assistance Fund" in appropriations Acts for fiscal year 1994 and prior fiscal years to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $160,000,000 is rescinded.

(b) DEPARTMENT OF STATE.—Of the funds made available under the heading "Department of State—Administration of Foreign Affairs—Diplomatic and Consular Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $600,000 is rescinded.

(c) USIA.—

(1) SALARIES AND EXPENSES.—Of the funds made available under the heading "United States Information Agency—Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $3,000,000 is rescinded.

(2) NORTH/SOUTH CENTER.—Of the funds made available under the heading "United States Information Agency—North/South Center" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $8,700,000 is rescinded.

## TITLE II—PHYSICAL CAPITAL, NATURAL RESOURCES, AND SCIENCE

**SEC. 201. TERMINATION OF SPACELIFTER PROGRAM.**

(a) IN GENERAL.—The United States shall not obligate any funds for the acquisition or operation of any space launch system not in operation as of the date of enactment of this Act.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "Research, Development, Test and Evaluation, Defense-Wide" in the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139), $10,000,000 is rescinded, to be derived from the new medium lift vehicle (Spacelifter) program.

**SEC. 202. DEPARTMENT OF SCIENCE, SPACE, ENERGY AND TECHNOLOGY.**

(a) SHORT TITLE.—This section may be cited as the "Department of Science, Space, Energy, and Technology Organization Act of 1993".

(b) GENERAL PROVISIONS.—

(1) FINDINGS.—The Congress finds that—

(A) the advancement of science and technology is a vital national goal which is essential for the continued economic well being of the United States;

(B) the creation of new scientific information and technological development are generators of new wealth and jobs;

(C) consolidation of the Federal agencies which conduct and support science and technology activities will focus the resources of the Federal Government and will lead to better coordination of the overall effort of those agencies to carry out the research and development objectives of the United States;

(D) the elimination of duplication of functions within the scientific and technical agencies of the Federal Government will lead to cost savings for the Government; and

(E) the creation of the Department of Science, Space, Energy, and Technology will increase the dissemination of technology through the improved coordination of technology transfer from the Federal Government to the private sector.

(2) DEFINITIONS.—As used in this section, unless otherwise provided or indicated by the context—

(A) the term "Department" means the Department of Science, Space, Energy, and Technology;

(B) the term "Secretary" means the Secretary of Science, Space, Energy, and Technology;

(C) the term "Deputy Secretary" means the Deputy Secretary of Science, Space, Energy, and Technology;

(D) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(E) the term "office" includes any office, institute, council, unit, or organizational entity, or any component thereof.

(c) ESTABLISHMENT OF THE DEPARTMENT.—

(1) ESTABLISHMENT.—There is authorized an executive department to be known as the Department of Science, Space, Energy, and Technology. The Department shall be administered, in accordance with the provisions of this section, under the supervision and direction of a Secretary of Science, Space, Energy, and Technology. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall receive basic pay at the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code.

(2) PRINCIPAL OFFICERS.—

(A) DEPUTY SECRETARY.—(i) There shall be in the Department a Deputy Secretary of Science, Space, Energy, and Technology who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices. The Deputy Secretary shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(ii) The Deputy Secretary shall perform such other duties and exercise such powers as the Secretary may from time to time prescribe.

(B) UNDER SECRETARIES.—(i) There shall be in the Department—

(I) an Under Secretary of Research who shall, on the transfer of functions and offices under subsection (d), serve as the Director of the National Science Foundation;

(II) an Under Secretary of Technology who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Institute of Standards and Technology, the National Technical Information Service, the National Telecommunications and Information Administration, and the Patent and Trademark Office;

(III) an Under Secretary of Energy who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Energy Administration;

(IV) an Under Secretary of Space who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Aeronautics and Space Administration; and

(V) an Under Secretary of Oceanic and Atmospheric Affairs who shall, on the transfer of functions and offices under subsection (d), serve as the Administrator of the National Oceanic and Atmospheric Administration.

(ii) Each of the Under Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. The Under

Secretaries shall receive basic pay at the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) ASSISTANT SECRETARIES.—(i) There shall be as many as 20 Assistant Secretaries in the Department. Among the Assistant Secretaries shall be—

(I) an Assistant Secretary for Administration who shall serve as the Chief Financial Officer of the Department;

(II) an Assistant Secretary for Policy and Budget;

(III) an Assistant Secretary for Congressional and Intergovernmental Affairs;

(IV) an Assistant Secretary for Technology Transfer and Commercial Programs; and

(V) an Assistant Secretary for International Programs.

(ii) Each of the Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(D) GENERAL COUNSEL.—There shall be in the Department a General Counsel who shall administer the Office of General Counsel. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(E) INSPECTOR GENERAL.—There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978. The Inspector General shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(F) ADDITIONAL OFFICERS.—In addition to the officers specified in subparagraphs (A) through (E) and the 24 members of the Board of Directors of the National Science Foundation, there shall be in the Department not more than 10 additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subparagraph shall perform such functions as the Secretary shall prescribe.

(G) SPECIFICATION OF FUNCTIONS.—Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this paragraph, the President shall state the particular functions of the Department such individual will exercise upon taking office, consistent with the requirements of this section.

(H) LINE OF AUTHORITY; ADDITIONAL FUNCTIONS.—Each officer of the Department referred to in subparagraphs (A) through (F) shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(d) TRANSFERS OF FUNCTIONS AND OFFICES.—

(1) TRANSFER OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There is transferred to the Department the National Aeronautics and Space Administration, along with all of its functions and offices.

(2) TRANSFER OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is transferred to the Department the National Institute of Standards and Technology, along with all of its functions and offices.

(3) TRANSFER OF THE NATIONAL SCIENCE FOUNDATION.—There is transferred to the Department the National Science Foundation, along with all of its functions and offices.

(4) TRANSFER OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There is transferred to the Department the National Oceanic and Atmospheric Administration, along with all of its functions and offices.

(5) TRANSFER OF THE NATIONAL TECHNICAL INFORMATION SERVICE.—There is transferred to the Department the National Technical Information Service, along with all of its functions and offices.

(6) TRANSFER OF THE PATENT AND TRADEMARK OFFICE.—There is transferred to the Department the Patent and Trademark Office, along with all of its functions and offices.

(7) TRANSFER OF THE DEPARTMENT OF ENERGY.—There is transferred to the Department the Department of Energy, which shall be renamed the National Energy Administration, along with all of its functions and offices, except for the following facilities, which shall be transferred to the Department of Defense:

(A) The Feed Materials Production Center at Fernald, Ohio.

(B) The Extrusion Plant at Ashtabula, Ohio.

(C) The Savannah River Plant, including the Savannah River Weapons Facility, at Aiken, South Carolina.

(D) The Hanford Production Operations at Richland, Washington.

(E) The Nevada Test Site.

(F) The Kansas City Plant at Kansas City, Missouri.

(G) The Rocky Flats Plant located between Golden and Boulder, Colorado.

(H) The Pantex Plant located near Amarillo, Texas.

(I) The Pinellas Plant at St. Petersburg, Florida.

(J) The Mound Facility at Miamisburg, Ohio.

(K) The Y-12 Plant at Oak Ridge, Tennessee.

(8) TRANSFER OF THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION.—There is transferred to the Department the National Telecommunications and Information Administration, along with all of its functions and offices.

(9) EFFECTIVE DATE.—This subsection shall take effect—

(A) 180 days after the first Secretary takes office under subsection (c)(1); or

(B) on any date earlier than the date described in subparagraph (A), but later than September 30, 1994, that the President designates through publication in the Federal Register.

(e) ADMINISTRATIVE PROVISIONS.—

(1) PERSONNEL PROVISIONS.—

(A) OFFICERS AND EMPLOYEES.—

(i) GENERAL AUTHORITY.—The Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(ii) TEMPORARY SUPER GRADE AND TECHNICAL POSITIONS.—(I)(aa) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under subsection (d) and which were assigned and filled on the day before such transfer.

(bb) Appointments to positions provided for under this subclause may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under subsection (d) and, on the day before such transfer, holds a position and has duties comparable to those of the position to which appointed hereunder.

(II) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Department of a number of scientific and professional positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under subsection (d) and which were assigned and filled on the day before such transfer.

(III) The authority under this clause with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(IV) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this clause shall be deemed to occupy the same position as the individual occupied on the day before the transfer of functions and offices under subsection (d).

(iii) TRANSITIONAL SENIOR EXECUTIVE SERVICE POSITIONS.—Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 5 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire on the later of 3 years after the date of the transfer of functions and offices under subsection (d) or 3 years after the initial appointment to each position. Positions in effect under this clause shall be taken into account in applying the limitation on positions prescribed under section 3134(e) and section 5108 of such title.

(B) EXPERTS AND CONSULTANTS.—The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under subchapter III of chapter 53 of such title.

(C) PERSONNEL REDUCTION.—

(i) FULL-TIME EMPLOYEE LIMITATIONS.—Not later than the end of the first fiscal year beginning after the date of the transfer of functions and offices under subsection (d), the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department under such subsection shall be reduced by not less than 350.

(ii) COMPUTATIONS.—Computations required to be made for purposes of this subparagraph shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5, United States Code, and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(iii) REPORT TO CONGRESS.—The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the date of the transfer of functions and offices under subsection (d), prepare and transmit to the Congress a report on the effects on employees of the reorganization under this section, which shall include—

(I) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this section;

(II) a statement of the number of employees entitled to grade or pay retention under subchapter VI of chapter 53 of title 5, United States Code, by reason of the reorganization under this section;

(III) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(IV) an estimate of the personnel costs associated with such reorganization;

(V) the effects of such reorganization on labor management relations; and

(VI) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(2) GENERAL ADMINISTRATIVE PROVISIONS.—

(A) GENERAL AUTHORITY.—In carrying out any function transferred by this section, the Secretary, or any officer or employee of the Department, may exercise any authority available by law with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(B) DELEGATION.—Except as otherwise provided in this section, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this subparagraph or under any other provision of this section shall relieve the Secretary of responsibility for the administration of such functions.

(C) REORGANIZATION.—

(i) AUTHORITY OF SECRETARY.—Except as provided in clause (ii), the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or abolish such offices or positions within the Department as may be necessary or appropriate.

(ii) AUTHORITY WITH RESPECT TO STATUTORY ENTITIES.—The Secretary may not—

(I) abolish any office or position transferred to the Department and established by statute, or any function vested by statute in such an office or an officer of such an office;

(II) abolish any office or position established by this section; or

(III) alter the delegation of functions to any specific office or position required by this section,

unless a period of 90 days has passed after the receipt by the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this clause and the facts and circumstances relied upon in support of such proposed action.

(D) REGULATIONS.—The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department, in accordance with chapter 5 of title 5, United States Code.

(E) CONTRACTS.—

(i) IN GENERAL.—Subject to the Federal Property and Administrative Services Act of 1949 and other applicable Federal law, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(ii) APPROPRIATION AUTHORITY REQUIRED.—No authority to enter into contracts or to make payments under this section shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subparagraph (J).

(F) REGIONAL AND FIELD OFFICES.—The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(G) ACQUISITION AND MAINTENANCE OF PROPERTY.—

(i) AUTHORITY OF SECRETARY.—To the extent necessary to carry out functions under this and any other Act, the Secretary is authorized to provide appropriate facilities and services necessary for carrying out such functions or necessary for the health and welfare of the Department's employees, including—

(I) to acquire (by purchase, lease, condemnation, contract, or otherwise), construct, improve, repair, operate, maintain, and provide transportation to—

(aa) schools and related facilities;

(bb) laboratories;

(cc) research and testing sites and facilities;

(dd) quarters and related accommodations, including eating facilities, for employees and dependents of employees of the Department; and

(ee) personal property (including patents), or any interest therein; and

(II) to provide reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(ii) LIMITATION.—The authority granted by clause (i) shall be available only with respect to facilities of a special purpose nature or at a remote location that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(H) USE OF FACILITIES.—

(i) AUTHORITY TO USE.—With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(ii) AUTHORITY TO PERMIT USE.—The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed 5 years. The Secretary may require permittees under this subparagraph to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This clause shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(iii) CREDITING OF REIMBURSEMENTS.—Proceeds from reimbursements under this subparagraph shall be deposited in a separate fund which shall be available to the Secretary without appropriation or fiscal year limitation, for carrying out the functions of the Secretary under this or any other Act.

(iv) INTERESTS IN REAL PROPERTY.—Any interest in real property acquired pursuant to this section shall be acquired in the name of the United States Government.

(I) COPYRIGHTS AND PATENTS.—

(i) ACQUISITION OF RIGHTS.—The Secretary is authorized to acquire any of the following described rights if the rights acquired thereby are for use by or for, or useful to, the Department:

(I) Copyrights, patents, designs, processes, and manufacturing data.

(II) Licenses in connection with copyrights and patents.

(III) Releases for past infringement of patents or copyrights.

(ii) DISPOSITION.—Notwithstanding clause (i), the disposition of all copyrights and patents and other intellectual property owned or developed for the Department shall be governed by chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act), section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)), the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.), or the National Competitiveness Technology Transfer Act of 1989, as appropriate.

(J) GIFTS AND BEQUESTS.—The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money, and proceeds from sales of other property received as gifts, bequests, or devises, shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(K) TECHNICAL ADVICE.—

(i) AUTHORITY TO PROVIDE.—The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(ii) CONSOLIDATION OF APPLICATIONS.—The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

(L) WORKING CAPITAL FUND.—

(i) ESTABLISHMENT AND USE.—The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a

working capital fund (in this subparagraph referred to as the "fund"), to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of an administrative services office to provide such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(I) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its offices;

(II) central messenger, mail, telephone, and other communications services;

(III) office space, and central services for document reproduction, for graphics, and for visual aids; and

(IV) a central library service.

(ii) OPERATION OF FUND.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the administrative services office, less the related liabilities and unpaid obligations. There shall be transferred to the administrative services office the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed. Administrative supplies and services provided by such office shall be paid for in advance from available funds of agencies and offices in the Department, or from other sources, at rates that will approximate the expense of operation. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property.

(M) FUNDS TRANSFER.—The Secretary may, when authorized in an appropriation Act for any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriations for any fiscal year shall be either increased or decreased pursuant to this subparagraph by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(N) SEAL OF DEPARTMENT.—The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(O) ANNUAL REPORT.—

(i) IN GENERAL.—The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year.

(ii) CONTRACTING-OUT REPORT.—The report required by clause (i) shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under subparagraph (E) or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(f) TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS.—

(1) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—

(A) TRANSFER TO SECRETARY.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with, the functions and offices, or portions thereof, transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subparagraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(B) EFFECT OF TERMINATIONS.—Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this section, personnel occupying those positions on the date of such transfer, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule under section 5315 or 5316 of title 5, United States Code, on the date of such transfer, shall be subject to paragraph (3) of this subsection.

(2) EFFECT ON PERSONNEL.—

(A) PRESERVATION OF GRADE AND COMPENSATION FOR 1 YEAR.—Except as otherwise provided in this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(B) PRESERVATION OF COMPENSATION FOR EXECUTIVE SCHEDULE APPOINTEES.—Any person who, on the day preceding the date of the transfer of functions and offices under subsection (d), held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

(3) AGENCY TERMINATIONS.—

(A) TERMINATIONS.—On the date of the transfer of functions and offices under subsection (d), the following entities shall terminate:

(i) The Office of the Secretary of Commerce.

(ii) The Office of the Deputy Secretary of Commerce.

(iii) The Office of the General Counsel of the Department of Commerce.

(iv) The Office of the Secretary of Energy.

(v) The Office of Deputy Secretary of Energy.

(vi) The Office of the Under Secretary of Commerce for Technology.

(vii) The Office of the Assistant Secretary of Commerce for Technology Policy.

(viii) The Office of Science and Technology Policy in the Executive Office of the President.

(B) TERMINATION OF EXECUTIVE SCHEDULE POSITIONS.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section shall also terminate.

(4) ADDITIONAL TRANSFERS.—

(A) IN GENERAL.—The Director of the Office of Management and Budget, in conjunction with the Secretary, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this section. The Director shall provide for the termination of the affairs of all entities terminated by this section and, in conjunction with the Secretary, for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(B) ALLOCATION OF SES POSITIONS.—After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this section.

(C) MISCELLANEOUS FUNCTIONS.—(i) The Economics and Statistics Administration, including the Bureau of Census and the Bureau of Economic Analysis, and the Bureau of Export Administration shall be transferred to the Department of the Treasury.

(ii) The Economic Development Administration shall be transferred to the Department of Housing and Urban Development.

(iii) The International Trade Administration and the United States Travel and Tourism Administration shall be transferred to the Office of the United States Trade Representative.

(iv) The Minority Business Development Administration shall be transferred to the Small Business Administration.

(5) SAVINGS PROVISIONS.—

(A) CONTINUITY OF LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(i) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this section to the Secretary or the Department; and

(ii) which are in effect at the time of such transfer,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, or the authorized official, a court of competent jurisdiction, or by operation of law.

(B) PENDING PROCEEDINGS.—(i) This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of the transfer of functions and offices under subsection (d) before any department, agency, commission, or component thereof, functions of which are transferred by this section. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued, except as provided in clause (iii).

(ii) Orders may be issued in such proceedings, appeals may be taken therefrom, and

payments may be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subparagraph to the Department.

(C) NO EFFECT ON JUDICIAL PROCEEDINGS.—Except as provided in subparagraph (E)—

(i) the transfer of functions and offices under subsection (d) shall not affect suits commenced prior to the date of such transfer; and

(ii) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(D) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against any department or agency, functions of which are transferred by this section, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this section.

(E) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the date of the transfer of functions and offices under subsection (d), any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this section any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(F) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Secretary.

(6) REFERENCE.—With respect to any function transferred by this section and exercised on or after the date of such transfer, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this section transfers such functions.

(7) AMENDMENTS.—

(A) DEPARTMENT OF ENERGY ORGANIZATION ACT.—Sections 201 through 203 of the Department of Energy Organization Act (42 U.S.C. 7131–7133) are repealed.

(B) INSPECTOR GENERAL ACT OF 1978.—THE INSPECTOR GENERAL ACT OF 1978 IS AMENDED—

(i) in section 8E(a)(2), by striking "the National Science Foundation,";

(ii) in section 8E(a)(4), by striking ", except that with respect to the National Science Foundation, such term means the National Science Board";

(iii) in section 11(1)—

(I) by striking "Commerce,";

(II) by striking "Energy,";

(III) by inserting "Science, Space, Energy, and Technology," after "the Interior, Labor,"; and

(IV) by striking "National Aeronautics and Space,"; and

(iv) in section 11(2)—

(I) by striking "Commerce,";

(II) by striking "Energy,";

(III) by inserting "Science, Space, Energy, and Technology," after "Justice, Labor,"; and

(IV) by striking "the National Aeronautics and Space Administration,".

(C) NATIONAL AERONAUTICS AND SPACE ACT OF 1958.—Section 207 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476a) is repealed.

(8) TRANSITION.—

(A) USE OF FUNDS.—Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this section, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this section and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

(B) USE OF PERSONNEL.—With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(9) INTERIM APPOINTMENTS.—

(A) AUTHORITY TO APPOINT.—Notwithstanding any other provision of law, in the event that one or more officers required by this section to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the date of the transfer of functions and offices under subsection (d), the President may designate an officer in the executive branch to act in such office for 120 days or until the office is filled as provided in this section, whichever occurs first.

(B) COMPENSATION.—Any officer acting in an office in the Department pursuant to the provisions of subparagraph (A) shall receive compensation at the rate prescribed for such office under this section.

(g) RELATION TO OTHER PROVISIONS.—

(1) MODIFICATIONS IN AUTHORITY.—If any other section of this Act increases, restricts, or otherwise modifies any authority (including the authority to assess or collect fees) with respect to any function or office, or portion thereof, transferred by this section, the authority transferred by this section shall be the authority as so modified.

(2) RESCISSIONS.—If any other section of this Act rescinds funds that are to be transferred pursuant to this section, such rescission shall be made prior to such transfer.

**SEC. 203. ELIMINATION OF FUNDING FOR MAGLEV PROTOTYPE DEVELOPMENT PROGRAM.**

(a) IN GENERAL.—Section 1036(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. 309 note; 105 Stat. 1986) is amended—

(1) in paragraph (1) by striking "the following" and all that follows through "DEMONSTRATION PROGRAM.—For" and inserting "for"; and

(2) in paragraph (2) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "Federal Railroad Administration—Railroad Research and Development" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103–122), $20,000,000 is rescinded, to be derived from magnetic levitation research and analysis activities.

**SEC. 204. RESCISSION OF FUNDS FOR FEDERALLY SPONSORED UNIVERSITY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Of the aggregate funds made available for the accounts specified in subsection (b), $220,000,000 is rescinded, to be derived from university research and development programs. The Director of the Office of Management and Budget shall allocate such rescission among such accounts, and shall submit to the Congress a report setting forth such allocation.

(b) AFFECTED ACCOUNTS.—The funds subject to the rescission made by subsection (a) are the following:

(1) NATIONAL INSTITUTES OF HEALTH.—The amounts made available under the heading "Department of Health and Human Services—National Institutes of Health" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103–112), for the following accounts:

(A) "National Cancer Institute".

(B) "National Heart, Lung, and Blood Institute".

(C) "National Institute of Dental Research".

(D) "National Institute of Diabetes and Digestive and Kidney Diseases".

(E) "National Institute of Neurological Disorders and Stroke".

(F) "National Institute of Allergy and Infectious Diseases".

(G) "National Institute of General Medical Sciences".

(H) "National Institute of Child Health and Human Development".

(I) "National Eye Institute".

(J) "National Institute of Environmental Health Sciences".

(K) "National Institute on Aging".

(L) "National Institute of Arthritis and Musculoskeletal and Skin Diseases".

(M) "National Institute on Deafness and Other Communication Disorders".

(N) "National Institute of Nursing Research".

(O) "National Institute on Alcohol Abuse and Alcoholism".

(P) "National Institute on Drug Abuse".

(Q) "National Institute of Mental Health".

(R) "National Center for Research Resources".

(S) "National Center for Human Genome Research".

(T) "John E. Fogarty International Center".

(U) "National Library of Medicine".

(V) "Office of the Director".

(2) INDEPENDENT AGENCIES.—The amounts made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103–124), for the following accounts:

(A) "National Science Foundation—Research and Related Activities".

(B) "National Aeronautics and Space Administration—Research and Development".

(3) DEPARTMENT OF DEFENSE.—The amounts made available in the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139), for the following accounts:

(A) "Research, Development, Test and Evaluation, Army".

(B) "Research, Development, Test and Evaluation, Navy".

(C) "Research, Development, Test and Evaluation, Air Force".

(D) "Research, Development, Test and Evaluation, Defense-Wide".

**SEC. 205. RECOUPMENT OF CERTAIN GRANTS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Commerce shall establish procedures and criteria for the recoupment of the Federal share of all cost shared research, development, demonstration, and commercial application projects undertaken by such Departments. If required, such recoupment shall occur within a reasonable period of time following the date of completion of a project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(1) the commercial competitiveness of the entity carrying out the project;

(2) the profitability of the project; and

(3) the commercial viability of the technology utilized.

The Secretary of Energy and the Secretary of Commerce may require recoupment under this section as appropriate.

**SEC. 206. COVERAGE OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS BY COMPETITION IN CONTRACTING ACT.**

(a) CONTRACTS WITH EXECUTIVE AGENCIES.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended in subsection (b)(1)(C) and in subsection (c)(3) by striking out "or a federally funded research and development center" each place it appears.

(b) CONTRACTS WITH DEPARTMENT OF DEFENSE.—Section 2304 of title 10, United States Code, is amended in subsection (b)(1)(C) and in subsection (c)(3) by striking out "or a federally funded research and development center" each place it appears.

**SEC. 207. TERMINATION OF MODULAR HIGH-TEMPERATURE GAS-COOLED REACTOR PROJECT.**

(a) IN GENERAL.—The United States shall not obligate any funds for the Modular High-Temperature Gas-Cooled Reactor program.

(b) AMENDMENTS.—Section 2122(b) of the Energy Policy Act of 1992 (42 U.S.C. 13492(b)) is amended—

(1) in paragraph (1)(B), by striking "the modular high-temperature gas-cooled reactor technology and"; and

(2) in paragraph (2)(C)—

(A) by striking "high-temperature gas-cooled reactor technology and"; and

(B) by striking "one or both of those technologies" and inserting in lieu thereof "that technology".

(c) RESCISSION OF FUNDS.—Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103–126), $12,000,000 is rescinded, to be derived from the gas turbine-modular helium reactor program.

**SEC. 208. DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION.**

(a) DEPARTMENT OF ENERGY FACILITIES CLOSURE AND RECONFIGURATION COMMISSION.—

(1) ESTABLISHMENT.—There is established an independent commission to be known as the "Department of Energy Facilities Closure and Reconfiguration Commission".

(2) DUTIES.—The Commission shall carry out the duties specified for the Commission in this section.

(3) APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President, by and with the advise and consent of the Senate. The President shall transmit to the Senate the nominations for appointment to the Commission not later than 3 months after the date of the enactment of this Act.

(B) CONSULTATION.—In selecting individuals for nominations for appointments to the Commission, the President should consult with—

(i) the Speaker of the House of Representatives concerning the appointment of 1 member;

(ii) the majority leader of the Senate concerning the appointment of 1 member;

(iii) the minority leader of the House of Representatives concerning the appointment of 1 member; and

(iv) the minority leader of the Senate concerning the appointment of 1 member.

(C) CHAIRPERSON.—At the time the President nominates individuals for appointment to the Commission, the President shall designate one such individual who shall serve as Chairperson of the Commission.

(4) TERMS.—Each member of the Commission shall serve until the termination of the Commission under paragraph (12).

(5) MEETINGS.—Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(7) PAY AND TRAVEL EXPENSES.—

(A) IN GENERAL.—

(i) BASIC PAY.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(ii) PAY OF CHAIRPERSON.—The Chairperson shall be paid for each day referred to in clause (i) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(8) DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served as a civilian employee of the Department of Energy during the one-year period preceding the date of such appointment.

(B) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(9) STAFF.—

(A) APPOINTMENT BY DIRECTOR.—Subject to subparagraphs (B) and (C), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(C) LIMITATION.—Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Energy.

(D) SUPPORT FROM OTHER AGENCIES.—Upon request of the Director, the head of a Federal agency may detail any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(E) SUPPORT FROM COMPTROLLER GENERAL.—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(10) OTHER AUTHORITY.—

(A) TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) AUTHORITY TO LEASE SPACE AND ACQUIRE CERTAIN PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available. To the extent practicable, the Commission shall use suitable real property available under the most recent inventory of real property assets published by the Resolution Trust Corporation under section 21A(b)(11)(F) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)(F)).

(11) FUNDING.—There is appropriated for fiscal year 1994, out of any money in the Treasury not otherwise appropriated, $1,000,000 to the Commission to carry out its duties under this section. Such funds shall remain available until expended.

(12) TERMINATION.—The Commission shall terminate not later than 20 months after the date of the enactment of this Act.

(b) PROCEDURE FOR MAKING RECOMMENDATIONS FOR CLOSURE AND RECONFIGURATION OF FACILITIES.—

(1) SELECTION CRITERIA.—

(A) IN GENERAL.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Energy shall publish in the Federal Register and transmit to the congressional energy committees the criteria proposed to be used by the Secretary in making recommendations for the closure or reconfiguration of Department of Energy facilities resulting in an overall budget for

such facilities for a fiscal year in an amount equal to the amount appropriated for such facilities for the previous fiscal year reduced by 25 percent. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under this paragraph. In developing the criteria, the Secretary shall consider—

(i) the program costs and program distributions on a State and county basis, including real and personal property costs associated with each Department of Energy facility considered;

(ii) the number of participants in programs conducted through a Department of Energy facility and staff resources involved;

(iii) duplication of effort by Department of Energy facilities and overhead costs as a proportion of program benefits distributed through a Department of Energy facility; and

(iv) cost savings and increases that would accrue through the reconfiguration of Department of Energy facilities.

(B) FINAL CRITERIA.—Not later than 5 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register and transmit to the congressional energy committees the final criteria to be used in making recommendations for the closure or reconfiguration of Department of Energy facilities under this section.

(2) SECRETARY'S RECOMMENDATIONS.—

(A) PUBLICATION IN FEDERAL REGISTER.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register and transmit to the congressional energy committees and to the Commission a list of the Department of Energy facilities that the Secretary recommends for closure or reconfiguration on the basis of the final criteria referred to in paragraph (1).

(B) SUMMARY OF SELECTION PROCESS.—The Secretary shall include, with the list of recommendations published and transmitted pursuant to subparagraph (A), a summary of the selection process that resulted in the recommendation for each Department of Energy facility, including a justification for each recommendation.

(C) EQUAL CONSIDERATION OF FACILITIES.—In considering Department of Energy facilities for closure or reconfiguration, the Secretary shall consider all such facilities equally without regard to whether a facility has been previously considered or proposed for closure or reconfiguration by the Secretary.

(D) AVAILABILITY OF INFORMATION.—The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Secretary in making recommendations to the Commission for closures and reconfiguration.

(3) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—

(A) PUBLIC HEARINGS.—After receiving the recommendations from the Secretary pursuant to paragraph (2), the Commission shall conduct public hearings on the recommendations.

(B) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Commission shall transmit to the President and the congressional energy committees a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and reconfigurations of Department of Energy facilities.

(C) DEVIATION FROM SECRETARY'S RECOMMENDATIONS.—In making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the final criteria referred to in paragraph (1) in making recommendations. The Commission shall explain and justify in the report any recommendation made by the Commission that is different from the recommendations made by the Secretary.

(D) PROVISION OF CERTAIN INFORMATION.—After transmitting the report, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(4) ASSISTANCE FROM COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to paragraph (2); and

(B) not later than 12 months after the date of the enactment of this Act, transmit to the congressional energy committees and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

(5) REVIEW BY THE PRESIDENT.—

(A) IN GENERAL.—Not later than 16 months after the date of the enactment of this Act, the President shall transmit to the Commission and to the congressional energy committees a report containing the President's approval or disapproval of the Commission's recommendations.

(B) PRESIDENTIAL APPROVAL.—If the President approves all of the recommendations of the Commission, the President shall transmit a copy of such recommendations to the congressional energy committees together with a certification of such approval.

(C) PRESIDENTIAL DISAPPROVAL.—If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the congressional energy committees the reasons for that disapproval. The Commission shall then transmit to the President, not later than 17 months after the date of the enactment of this Act, a revised list of recommendations for the closure and reconfiguration of Department of Energy facilities resulting in an overall budget for such facilities for a fiscal year in an amount equal to the amount appropriated for such facilities for the previous fiscal year reduced by 25 percent.

(D) CERTIFICATION.—If the President approves all of the revised recommendations of the Commission transmitted to the President under subparagraph (C), the President shall transmit a copy of such revised recommendations to the congressional energy committees, together with a certification of such approval.

(E) FAILURE TO CERTIFY.—If the President does not transmit to the congressional energy committees an approval and certification described in subparagraph (B) or (D) by 18 months after the date of the enactment of this Act, the process by which Department of Energy facilities may be selected for closure or reconfiguration under this section shall be terminated.

(c) CLOSURE AND RECONFIGURATION OF DEPARTMENT OF ENERGY FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall—

(A) close all Department of Energy facilities recommended for closure by the Commission in the report transmitted to the congressional energy committees by the President pursuant to subsection (b)(5);

(B) reconfigure all such facilities recommended for reconfiguration by the Commission in the report; and

(C) complete the closures and reconfigurations not later than the end of the 6-year period beginning on the date on which the President transmits the report pursuant to subsection (b)(5).

(2) CONGRESSIONAL DISAPPROVAL.—

(A) IN GENERAL.—The Secretary may not carry out any closure or reconfiguration of a facility recommended by the Commission in the report transmitted from the President pursuant to subsection (b)(5) if a joint resolution is enacted, in accordance with the provisions of subsection (g), disapproving the recommendations of the Commission before the earlier of—

(i) the end of the 45-day period beginning on the date on which the President transmits the report; or

(ii) the adjournment of Congress sine die for the session during which the report is transmitted.

(B) For purposes of subparagraph (A) of this paragraph and paragraphs (1) and (3) of subsection (g), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(d) IMPLEMENTATION OF CLOSURE AND RECONFIGURATION ACTIONS.—

(1) ACTIONS OF THE SECRETARY.—In closing or reconfiguring a Department of Energy facility under this section, the Secretary shall—

(A) take such actions as may be necessary to close or reconfigure the facility;

(B) provide outplacement assistance to any employees employed by the Department of Energy at the office whose employment is being terminated, and may use for such purpose funds in the Account or funds appropriated to the Department of Energy for outplacement assistance to employees;

(C) take such steps as may be necessary to ensure the safe keeping of all records stored at the facility; and

(D) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or reconfiguration, and may use for such purpose funds in the Account or funds appropriated to the Department of Energy and available for such purpose.

(2) MANAGEMENT AND DISPOSAL OF PROPERTY.—

(A) IN GENERAL.—The Administrator of General Services shall delegate to the Secretary of Energy, with respect to excess and surplus real property and facilities located at a Department of Energy facility closed or reconfigured under this section—

(i) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(ii) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(iii) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)); and

(iv) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(B) EXERCISE OF AUTHORITY.—

(i) IN GENERAL.—Subject to clause (iii), the Secretary shall exercise the authority delegated to the Secretary pursuant to subparagraph (A) in accordance with—

(I) all regulations in effect on the date of the enactment of this Act governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(II) all regulations in effect on the date of the enactment of this Act governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(ii) REGULATIONS.—The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by subparagraph (A).

(iii) LIMITATION.—The authority required to be delegated by subparagraph (A) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(3) WAIVER.—The Secretary may close or reconfigure Department of Energy facilities under this section without regard to any provision of law restricting the use of funds for closing or reconfiguring such facilities included in any appropriations or authorization Act.

(e) ACCOUNT.—

(1) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the "Department of Energy Facility Closure Account" which shall be administered by the Secretary as a single account.

(2) CONTENT OF ACCOUNT.—There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Energy for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional energy committees; and

(C) proceeds received from the transfer or disposal of any property at an office closed or reconfigured under this section.

(3) USE OF FUNDS.—The Secretary may use the funds in the Account only for the purposes described in subsection (d)(1).

(4) REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit a report to the congressional energy committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to subsection (d)(1) during such fiscal year.

(B) UNOBLIGATED FUNDS.—Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional energy committees receive the report transmitted under subparagraph (C).

(C) ACCOUNTING REPORT.—Not later than 60 days after the termination of the Commission, the Secretary shall transmit to the congressional energy committees a report containing an accounting of—

(i) all the funds deposited into and expended from the Account or otherwise expended under this section; and

(ii) any amount remaining in the Account.

(f) REPORTS ON IMPLEMENTATION.—As part of the budget request for each fiscal year in which the Secretary will carry out activities under this section, the Secretary shall transmit to the congressional energy committees—

(1) a schedule of the closure and reconfiguration actions to be carried out under this section in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and reconfiguration and of the time period in which these savings are to be achieved in each case; and

(2) a description of the Department of Energy facilities, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and reconfigurations.

(g) CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.—

(1) TERMS OF THE RESOLUTION.—For purposes of subsection (c)(2), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under subsection (b)(5), and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Department of Energy Facilities Closure and Reconfiguration Commission as submitted by the President on _____", the blank space being filled in with the appropriate date; and

(C) the title of which is as follows: "Joint resolution disapproving the recommendations of the Department of Energy Facilities Closure and Reconfiguration Commission.".

(2) REFERRAL.—A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services and the Committee on Science, Space, and Technology of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate.

(3) DISCHARGE.—If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under subsection (b)(5), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(4) CONSIDERATION.—

(A) IN GENERAL.—On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) QUORUM CALL.—Immediately following the conclusion of the debate on a resolution described in paragraph (1) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) APPEALS FROM DECISION OF CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—

(A) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in clause (ii)(II).

(ii) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) CONSIDERATION AFTER DISPOSITION BY OTHER HOUSE.—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(6) RULES OF THE SENATE AND HOUSE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Account" means the Department of Energy Facility Closure Account established in subsection (e)(1).

(2) The term "Commission" means the Department of Energy Facilities Closure and Reconfiguration Commission.

(4) The term "congressional energy committees" means the Committees on Armed Services of the Senate and House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.

(5) The term "Secretary" means the Secretary of Energy.

**SEC. 209. RESCISSION OF FUNDS FOR FUSION ENERGY RESEARCH AND DEVELOPMENT.**

Of the funds made available under the heading "Department of Energy—Energy Supply, Research and Development Activities" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $70,000,000 is rescinded, to be derived from the fusion energy program.

**SEC. 210. RESCISSION OF FUNDS FOR FOSSIL ENERGY RESEARCH AND DEVELOPMENT.**

Of the funds made available under the heading "Department of Energy—Fossil Energy Research and Development" in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103-138), $54,007,000 is rescinded.

**SEC. 211. ALASKA POWER ADMINISTRATION SALE.**

(a) SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.—(1) The Secretary of Energy may sell the Snettisham Hydroelectric Project (referred to in this section as "Snettisham") to the State of Alaska Power Authority (now known as the Alaska Industrial Development and Export Authority, and referred to in this section as the "Authority"), or its successor, in accordance with the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the United States Department of Energy and the Authority.

(2) The Secretary of Energy may sell the Eklutna Hydroelectric Project (referred to in this section as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this section as "Eklutna Purchasers") in accordance with the August 2, 1989, Eklutna Purchase Agreement between the United States Department of Energy and the Eklutna Purchasers.

(3) The heads of other affected Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized by this Act.

(4) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(5) There are authorized to be appropriated such sums as are necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance, such preparations to provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the assets to be sold.

(6) No later than one year after both of the sales authorized in this subsection have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(A) complete the business of, and close out, the Alaska Power Administration; and

(B) prepare and submit to Congress a report documenting the sales.

(b) ASSESSMENT OF ALTERNATIVE OPTIONS.—Before taking any action authorized in subsection (a), the Secretary shall assess the feasibility of alternative options for maximizing the return to the Treasury from the sale of the Alaska Power Marketing Administration.

**SEC. 212. FEDERAL-PRIVATE COGENERATION OF ELECTRICITY.**

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities".

**SEC. 213. TERMINATION OF CLEAN COAL TECHNOLOGY PROGRAM.**

(a) IN GENERAL.—The United States shall not obligate any funds for the Clean Coal Technology program.

(b) REPEAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the matter under the heading "DEPARTMENT OF ENERGY, CLEAN COAL TECHNOLOGY" in the Act entitled "An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1986, and for other purposes" enacted by section 101(d) of the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes" (Public Law 99-190; 99 Stat. 1251) is repealed.

(2) EXCEPTION.—The authority provided in the matter repealed by paragraph (1) of this subsection shall be preserved to the extent necessary to carry out obligations of the United States with respect to clean coal technology projects selected by the Secretary of Energy pursuant to the fifth general request for proposals issued by the Secretary under such section 101(d) (and pursuant to any such general request issued before the fifth general request).

**SEC. 214. RESCISSION OF FUNDS FROM SPR PETROLEUM ACCOUNT.**

The unobligated balance of the funds in the SPR petroleum account on the date of the enactment of this Act is rescinded.

**SEC. 215. STUDY OF TERMINATION OF HELIUM SUBSIDY.**

(a) FINDINGS.—The Congress finds that—

(1) the United States Government's helium recovery program was instituted in 1925, when helium conservation was deemed to be a matter of national security and no private sector helium recovery industry existed;

(2) today, as compared to 1925, there is little likelihood that the United States will have to field a fleet of blimps on an emergency basis;

(3) private sources of helium are more than adequate for serving existing and foreseeable future national needs;

(4) since 1925, there has been a dramatic increase in private industry's involvement in helium recovery, as a result of the free market discovery of numerous commercial uses for helium;

(5) currently, private industry accounts for 90 percent of all helium extraction and consumption;

(6) the Government's helium recovery program currently owes the Department of the Treasury $1,400,000,000 and loses an additional $120,000,000 yearly on interest alone, and there is no prospect for repayment of this debt without significant reform; and

(7) with combined public and private helium reserves considerably in excess of foreseeable national helium needs, there is no longer any need for the Federal Government to own and operate a helium refining and marketing program.

(b) STUDY.—(1) The Secretary of the Interior, in consultation with private industry, shall conduct a study to determine how best to—

(A) sell or otherwise dispose of, at the best possible terms available to the United States, all facilities, equipment, and other real or personal property, or rights thereto, held by the United States in connection with activities carried out under the Helium Act, unless such facilities, equipment, or other real or personal property, or rights thereto, are required for other Federal purposes;

(B) sell or otherwise dispose of, at the best possible terms available to the United States, the helium reserves held by the United States other than amounts required for the specific immediate needs of the Federal Government, in a manner consistent with the orderly conduct of commercial helium markets; and

(C) ensure the full repayment of loans made under section 12 of the Helium Act.

(2) The Secretary of the Interior shall transmit to the Congress within one year after the date of enactment of this Act a report containing the results of the study conducted under paragraph (1).

**SEC. 216. RESCISSION OF FUNDS FOR LOW-PRIORITY WATER PROJECTS.**

(a) CORPS OF ENGINEERS GENERAL INVESTIGATIONS.—Of the funds made available under the heading "Corps of Engineers-Civil—General Investigations" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $24,970,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) are not economically justified, or environmentally beneficial in a manner commensurate with costs;

(3) are not environmentally acceptable;

(4) are not in compliance with standard cost sharing;

(5) do not have available the necessary non-Federal sponsorship and funding;

(6) represent a Federal assumption of traditionally non-Federal responsibility; or

(7) have not completed normal executive branch project review requirements.

(b) CORPS OF ENGINEERS CONSTRUCTION.—Of the funds made available under the heading "Corps of Engineers-Civil—Construction, General" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $97,319,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) are not economically justified, or environmentally beneficial in a manner commensurate with costs;

(3) are not environmentally acceptable;

(4) are not in compliance with standard cost sharing;

(5) do not have available the necessary non-Federal sponsorship and funding;

(6) represent a Federal assumption of traditionally non-Federal responsibility; or

(7) have not completed normal executive branch project review requirements.

(c) BUREAU OF RECLAMATION.—Of the funds made available under the heading "Department of the Interior—Bureau of Reclamation—Construction Program" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $16,000,000 is rescinded, to be derived from projects that—

(1) are not continuations of ongoing work under contract;

(2) in the case of new projects, are inconsistent with the priorities of the Secretary of the Interior;

(3) are not environmentally beneficial in a manner commensurate with costs; or

(4) do not have available the necessary non-Federal cost sharing.

**SEC. 217. PREFERENCE FOR INTERIM MEASURES IN SUPERFUND RESPONSE ACTIONS.**

(a) AMENDMENT OF CERCLA.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, in selecting appropriate remedial actions in any record of decision issued on or after October 1, 1994, the President shall give a preference to the use of institutional controls (such as deed and access restrictions, monitoring, and provision of alternate water supplies), containment methods (including caps, slurry walls, and surface water diversion), and other interim measures, rather than permanent treatment technologies, if such measures are sufficient to assure the protection of human health and the environment.".

(b) CLEANUP STANDARDS.—Section 121(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(d)(2)) shall not apply to any remedial action described in the amendment made by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 517(b) of the Superfund Amendments and Reauthorization Act of 1986 is amended by striking "and" at the end of paragraph (8), by striking paragraph (9) and by inserting the following after paragraph (8):

"(9) 1995, $1,065,536,000,

"(10) 1996, $1,100,198,000,

"(11) 1997, $1,254,824,000, and

"(12) 1998, $1,321,018,000,".

(2) Section 9507(c) of the Internal Revenue Code of 1986 is amended by adding the following new paragraph at the end thereof:

"(3) LIMITATION ON APPROPRIATIONS FROM FUND.—For fiscal years 1995, 1996, 1997, and 1998, the total of all amounts authorized to be appropriated from the Superfund shall not exceed the amounts specified in paragraphs (9) through (12) of the Superfund Amendments and Reauthorization Act of 1986.".

(d) REPORT REQUIREMENT.—(1) The President shall submit to Congress a report, during each of the 5 years listed in paragraph (2), on the use of measures under the last sentence of section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621), as required by the amendment made by subsection (a). The report shall cover the preceding fiscal year and shall include the estimated savings resulting from the use of such measures in comparison to using permanent treatment technologies.

(2) The President shall submit the report required by paragraph (1) by December 1 of 1995, 1996, 1997, 1998, and 1999.

**SEC. 218. RESERVATION OF FUNDS FOR DISASTER RELIEF.**

(a) ESTABLISHMENT OF DISASTER RELIEF ACCOUNT.—On the date of the enactment of this Act the Secretary of the Treasury shall establish a Disaster Relief Account within the Office of the Secretary of the Treasury.

(b) RESERVATION OF FUNDS.—For each domestic discretionary spending account, the head of each Federal agency shall transfer 1 percent of all funds appropriated for each fiscal year beginning after September 30, 1993, to the account established under subsection (a) upon enactment of the appropriations Act for the agency for the fiscal year.

(c) TRANSFER OF FUNDS.—Upon enactment of an emergency disaster supplemental appropriations Act, the Secretary of the Treasury shall transfer such sums as are specified in such Act with respect to a disater declared by the President from the Disaster Relief Account to the accounts specified by such Act.

(d) USE OF DISASTER RELIEF ACCOUNT PRIOR TO PROVISION OF EMERGENCY FUNDS IN EXCESS OF CAPS.—All funds in the Disaster Relief Account established under subsection (a) shall be exhausted before any funds shall be made available pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) RELEASE OF FUNDS.—Any funds reserved under subsection (b) for a fiscal year which have not been transferred under subsection (c) by August 1 of such fiscal year shall after that date be returned to the account from which they were reserved in an amount proportionate to the amount originally reserved under subsection (b) if no emergency disaster supplemental appropriations bill has been reported from a committee of, or passed by, the House of Representatives or the Senate. If such a bill has been so reported or passed by August 1, such funds as may be required by such bill shall be retained in the Disaster Relief Account established under subsection (a) until transferred under subsection (c). Any funds in excess of those required for such bill shall be returned to the accounts from which they were reserved in an amount proportionate to the amount originally reserved under subsection (b) upon enactment of such bill as law.

(f) DEFINITION.—For purposes of this section, the term "domestic discretionary spending account" means each budget account that was for purposes of section 601(a) of the Congressional Budget Act of 1974 considered to be with respect to fiscal year 1993 within the domestic discretionary category, and each new account not classified as within function 050 or 150.

(g) RESCISSION OF FUNDS.—Of the funds made available under the heading "Federal Emergency Management Agency—Disaster Relief" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), $15,000,000 is rescinded.

**SEC. 219. ELIMINATION OF WEATHER OFFICE CLOSURE CERTIFICATION PROCEDURES.**

(a) IN GENERAL.—Title VII of the National Oceanic and Atmospheric Administration Authorization Act of 1992 is repealed.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the repeal made by subsection (a) will not result in a degradation of weather forecasting service.

(c) RESCISSION OF FUNDS.—Of the funds made available under the heading "National Oceanic And Atmospheric Administration—Operations, Research, and Facilities" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $20,000,000 is rescinded, to be derived from the National Weather Service.

**SEC. 220. RESCISSION OF FUNDS FOR NOAA RESEARCH FLEET.**

Of the funds made available under the heading "National Oceanic And Atmospheric Administration—Fleet Modernization, Shipbuilding and Conversion" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $77,064,000 is rescinded.

**SEC. 221. RESCISSION OF FUNDS FOR NOAA ADD-ONS.**

Of the funds made available under the heading "National Oceanic And Atmospheric Administration" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), there are rescinded the following amounts from the following accounts:

(1) "Operations, Research, and Facilities", $71,298,000.

(2) "Construction", $29,840,000.

(3) "Aircraft Procurement and Modernization", $43,000,000.

**SEC. 222. STUDY CONCERNING MERGER OF BUREAU OF RECLAMATION AND UNITED STATES ARMY CORPS OF ENGINEERS.**

(a) FINDING.—The Congress finds—

(1) that similar functions should be administered in the same agency;

(2) that the Bureau of Reclamation is currently reevaluating its mission; and

(3) now is the proper time for the Bureau of Reclamation and the Corps of Engineers to evaluate the feasibility of a merger.

(b) STUDY.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior, acting through the Commissioner of Reclamation, and the Secretary of the Army, acting through the Chief of Engineers, shall jointly conduct a study and submit a report to the Congress on merging the Bureau of Reclamation with the Corps of Engineers. The study shall include an examination of the administrative efficiencies that could be achieved in addition to the change and reorganization referred to in subsection (a), including—

(1) a the financial savings through administrative efficiency that would be obtained through such a merger; and

(2) the realignment of water projects such that similar projects are treated in a similar manner.

**SEC. 223. RESCISSION OF FUNDS FOR AGRICULTURE BUILDING AND FACILITIES ACCOUNT.**

Of the funds made available under the heading "Cooperative State Research Service—Buildings and Facilities" in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-111), $56,874,000 is rescinded.

**SEC. 224. REPEAL OF AUTHORIZATIONS FOR THE AIRWAY SCIENCE PROGRAM, COLLEGIATE TRAINING INITIATIVE, AND AIR CARRIER MAINTENANCE TECHNICIAN TRAINING FACILITY GRANT PROGRAM.**

(a) AIRWAY SCIENCE PROGRAM.—All authority for—

(1) the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration for conducting demonstration projects with respect to the development, advancement, and expansion of airway science programs, and

(2) the Federal Aviation Administration to enter into competitive grant agreements with institutions of higher education having airway science curricula,

and all authorizations to appropriate funds for such purposes, including all authorizations for which funds were appropriated for such purposes under the heading "Federal Aviation Administration, Facilities and Equipment" in the Department of Transportation and Related Agencies Appropriations Acts, 1994 are repealed.

(b) COLLEGIATE TRAINING INITIATIVE.—Section 362 of the Department of Transportation

and Related Agencies Appropriations Act, 1993 (106 Stat. 1560) is repealed. Notwithstanding such repeal, the Administrator of the Federal Aviation Administration may continue to convert appointment of persons who have been appointed pursuant to such section prior to the effective date of this Act from the excepted service to a career conditional or career appointment in the competitive civil service, pursuant to subsection (c) of such section.

(c) AIR CARRIER MAINTENANCE TECHNICIAN TRAINING FACILITY GRANT PROGRAM.—Section 119 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (49 U.S.C. App. 1354 note; 106 Stat. 4883-4884) is repealed.

(d) RESCISSION OF FUNDS.—

(1) FAA OPERATIONS.—Of the funds made available under the heading "Federal Aviation Administration—Operations" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103-122), $2,750,000 is rescinded, to be derived from grants to the Mid-American Aviation Resource Consortium and vocational technical institutions.

(2) FAA FACILITIES AND EQUIPMENT.—Of the unobligated balance of funds made available under the heading "Federal Aviation Administration—Facilities and Equipment" in appropriations Acts for fiscal year 1994 and prior fiscal years, $40,257,111 is rescinded, to be derived from the airway science program.

**SEC. 225. REPEAL OF NATIONAL RECREATIONAL TRAILS PROGRAM.**

The Symms National Recreational Trails Act of 1991 (16 U.S.C. 1261-1262; 105 Stat. 2064-2069) is repealed.

**SEC. 226. RESCISSION OF FUNDS FOR EDA.**

Of the funds made available under the heading "Economic Development Administration—Economic Development Assistance Programs"in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $159,892,000 is rescinded.

**SEC. 227. ELIMINATION OF FUNDING FOR PUBLIC TELECOMMUNICATIONS FACILITIES.**

(a) REPEAL OF AUTHORIZATION OF APPROPRIATIONS.—Subpart A of Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390-393a) is repealed.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "National Telecommunications and Information Administration—Public Telecommunications Facilities, Planning and Construction" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $24,000,000 is rescinded.

**SEC. 228. MORATORIUM ON CONSTRUCTION AND ACQUISITION OF NEW FEDERAL BUILDINGS.**

(a) GENERAL RULE.—After the date of the enactment of this Act and before October 1, 1998, the Administrator of General Services may not obligate any funds for construction or acquisition of any public building under the authority of the Public Buildings Act of 1959 or any other provision of law (other than a public building under construction or under contract for acquisition on such date of enactment).

(b) PUBLIC BUILDING DEFINED.—In this section, the term "public building" has the meaning such term has under the Public Buildings Act of 1959.

## TITLE III—GOVERNMENT MANAGEMENT

**SEC. 301. GOVERNMENT INFORMATION DISSEMINATION AND PRINTING IMPROVEMENT.**

(a) TRANSFER OF FUNCTIONS.—

(1) PUBLIC PRINTER.—The position of Public Printer and all functions of the position of Public Printer (other than functions of the Superintendent of Documents) under title 44, United States Code, or any other provision of law are transferred from the legislative branch of the Government to the executive branch of the Government.

(2) SUPERINTENDENT OF DOCUMENTS.—The position of Superintendent of Documents and all functions of the position of Superintendent of Documents under title 44, United States Code, or any other provision of law are transferred to the Library of Congress and shall be carried out by the Superintendent of Documents under the direction of the Librarian of Congress. The Superintendent of Documents shall be appointed by, and serve at the pleasure of, the Librarian of Congress.

(3) REVOCATION OF CHARTERS.—All printing plant charters authorized under section 501 of title 44, United States Code, are revoked.

(4) EFFECTIVE DATE.—The transfer under paragraph (1) and the revocation under paragraph (3) shall each take effect 2 years after the date of the enactment of this Act. The transfer under paragraph (2) shall take effect one year after the date of the enactment of this Act.

(b) GOVERNMENT PUBLICATIONS TO BE AVAILABLE THROUGHOUT THE GOVERNMENT.—All Government publications shall be available throughout the Government to any department, agency, or entity of the Government for use or redissemination.

(c) INVENTORY AND FURNISHING OF GOVERNMENT PUBLICATIONS.—Each department, agency, and other entity of the Government shall—

(1) establish and maintain a comprehensive inventory of its Government publications;

(2) make such inventory available through the electronic directory under chapter 41 of title 44, United States Code; and

(3) in the form and manner prescribed by the Superintendent of Documents, furnish its Government publications to the Superintendent of Documents.

(d) ADDITIONAL RESPONSIBILITIES OF THE PUBLIC PRINTER.—

(1) IN GENERAL.—The Public Printer shall, with respect to the executive branch of the Government and the judicial branch of the Government—

(A) use all necessary measures to remedy neglect, delay, duplication, and waste in the public printing and binding of Government publications, including the reduction and elimination of internal printing and high-speed duplicating capacities of departments, agencies, and entities;

(B) prescribe Government publishing standards, which, to the greatest extent practicable, shall be consistent with the United States Government Printing Office Style Manual;

(C) prescribe Government procurement and manufacturing requirements for printing paper and writing paper, which, to the greatest extent practicable, shall be consistent with Government Paper Specification Standards;

(D) authorize the acquisition and transfer of equipment requisitioned by publishing facilities authorized under section 501 of title 44, United States Code;

(E) authorize the disposal of such equipment pursuant to section 312 of title 44, United States Code; and

(F) establish policy for the acquisition of printing, which, to the greatest extent practicable, shall be consistent with (i) Printing Procurement Regulation (GPO Publication 305.3), (ii) Government Printing and Binding Regulations (JCP No. 26), and (ii) Printing Procurement Department Instruction (PP304.1B).

(2) POLICY STANDARDS.—The policy referred to in paragraph (1)(F) shall be formulated to maximize competitive procurement from the private sector. Government in-house printing and duplicating operations authorized under section 501 of title 44, United States Code, or otherwise authorized by law, may be used if they provide printing at the lowest cost to the Government, taking into consideration the total expense of production, materials, labor, equipment, and general and administrative expense, including all levels of overhead.

(e) ADDITIONAL RESPONSIBILITIES OF THE SUPERINTENDENT OF DOCUMENTS.—

(1) GOVERNMENT PUBLICATIONS TO BE FURNISHED TO THE SUPERINTENDENT OF DOCUMENTS.—If a department, agency, or other entity of the Government publishes a Government publication, the head of the department, agency, or entity shall furnish the Government publication to the Superintendent of Documents not later than the date of release of the material to the public.

(2) DISSEMINATION OR REPUBLICATION.—In addition to any other dissemination provided for by law, the Superintendent of Documents shall disseminate or republish Government publications, if, as determined by the Superintendent, the dissemination by the department, agency, or entity of the Government is inadequate. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under paragraph (1), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(3) COST.—The cost charged to the public by the superintendent of documents under paragraph (2) for any government publication (whether such government publication is made available to the public by a department, agency, or entity of the government, or by the superintendent of documents) may include the incremental cost of dissemination, but may not include any profit.

(f) DEPOSITORY LIBRARIES.—In addition to any other distribution provided for by law, the Superintendent of Documents shall make Government publications available to designated depository libraries and State libraries. The Superintendent shall have authority to carry out the preceding sentence by appropriate means, including the dissemination and republication of Government publications furnished under subsection (e)(1), with the cost of dissemination and republication to be borne by the department, agency, or entity involved.

(g) DEFINITIONS.—As used in this section—

(1) the term "Government publication" means any informational matter that is published at Government expense, or as required by law; and

(2) the term "publish" means, with respect to informational matter, make available for dissemination.

**SEC. 302. SENSE OF CONGRESS REGARDING REORGANIZATION OF BUREAU OF INDIAN AFFAIRS.**

It is the sense of the Congress that—

(1) the Bureau of Indian Affairs should be reorganized, with special attention given to the reorganizing the Bureau's 12 area offices into not more than 5 regional service centers and 2 special service offices; and

(2) such reorganization should be pursued in coordination with the Task Force on Bureau of Indian Affairs reorganization, as provided in the Department of the Interior and

Related Agencies Appropriations Act, 1994 (Pub. L. 103-138).

**SEC. 303. RESCISSION OF FUNDS FOR PRINTING AND REPRODUCTION AND FOR SUPPLIES AND MATERIALS.**

(a) IN GENERAL.—Of the funds made available in appropriations Acts for fiscal year 1994 to the following agencies for printing and reproduction and for supplies and materials, the following amounts are rescinded:

(1) Department of Agriculture, $186,000,000.

(2) Department of Commerce, $6,000,000.

(3) Department of Health and Human Services, $22,400,000.

(4) Department of the Interior, $14,400,000.

(5) Department of Justice, $15,600,000.

(6) Department of Labor, $2,000,000.

(7) Department of State, $4,400,000.

(8) Department of the Treasury, $13,200,000.

(9) Department of Education, $400,000.

(10) Department of Energy, $2,800,000.

(11) Environmental Protection Agency, $11,200,000.

(12) Department of Transportation, $33,200,000.

(13) Department of Housing and Urban Development $240,000.

(14) Department of Veterans Affairs, $97,200,000.

(b) ALLOCATION.—The Director of the Office of Management and Budget shall allocate the rescissions made by subsection (a) among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

**SEC. 304. STREAMLINING OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

(a) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall streamline the headquarters, regional, and field office structure of the Department of Housing and Urban Development by consolidating various of such offices and reducing the size of the Department, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

(b) WORKFORCE REDUCTIONS.—In carrying out subsection (a), during the period referred to in such subsection, the Secretary of Housing and Urban Development shall eliminate not less than 1,500 full-time employment positions in the Department of Housing and Urban Development.

**SEC. 305. TERMINATION OF INTERSTATE COMMERCE COMMISSION.**

(a) IN GENERAL.—There are transferred to the Secretary, effective January 1, 1994, all functions of the Commission.

(b) AUTHORITY OF OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget, in consultation with the Commission and the Secretary, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of assets, liabilities, contracts, property, and records, as may be necessary to carry out the provisions of this section. The unobligated funds of the Commission shall not be transferred to the Department of Transportation in order to carry out the transfer of functions under this section, and the number of fulltime employee positions within the Department of Transportation shall not be increased as a result of such transfer of functions.

(c) JOINT PLANNING FOR TRANSFER.—The Chairman of the Commission and the Secretary shall, beginning as soon as practicable after the date of enactment of this section, jointly plan for the orderly transfer of functions under this section.

(d) INTERIM USE OF INTERSTATE COMMERCE COMMISSION PERSONNEL.—Prior to January 1, 1994, and with the consent of the Commission, the Secretary may use the services of officers, employees, and other personnel of the Commission under such terms and conditions as will reasonably facilitate the orderly transfer of functions under this section.

(e) SAVINGS PROVISIONS.—

(1) IN GENERAL.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(A) which have been issued, made, granted, or allowed to become effective by any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by this section to the Secretary from the Commission; and

(B) which are in effect immediately before the transfer of functions by this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary or any other duly authorized official, by any court of competent jurisdiction, or by operation of law.

(2) CONTINUATION OF PROCEEDINGS.—The transfer of functions by this section shall not affect any proceedings, including rulemaking proceedings, or any application for any license, permit, or certificate, pending before the Commission immediately before the transfer takes effect. Such proceedings and applications shall be continued at the Department of Transportation. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Transportation, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) EFFECT ON PENDING CIVIL ACTIONS.—Except as provided in paragraph (5)—

(A) the transfer of any function under this section shall not affect any civil action relating to such function which is commenced prior to the date the transfer takes effect; and

(B) in all such actions, proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No action or other proceeding commenced by or against any officer in that officer's official capacity as an officer of the Commission shall abate by reason of the transfer of any function under this section. No cause of action by or against the Commission, or by or against any officer thereof in that officer's official capacity, shall abate by reason of the transfer of any function under this section.

(5) JUDICIAL ADMINISTRATIVE PROVISION.—If immediately before the transfer of functions by this section the Commission or any officer thereof in that officer's official capacity is a party to an action relating to a function transfer by this section, then such action shall be continued with the Secretary or other appropriate official of the Department of Transportation substituted or added as a party.

(6) REFERENCES.—With respect to any function transferred by this section and performed on or after the effective date of the transfer, reference in any Federal law to the Interstate Commerce Commission or the Commission (insofar as such term refers to the Interstate Commerce Commission), or to any officer or office thereof, shall be deemed to refer to the Department of Transportation, or other official or component of the Department of Transportation in which such function vests.

(7) EXERCISE OF FUNCTIONS BY SECRETARY.—In the exercise of any function transferred by this section, the Secretary shall have the same authority as that vested in the Commission with respect to such function immediately preceding its transfer, and actions of the Secretary shall have the same force and effect as when exercised by the Commission. Orders and actions of the Secretary in the exercise of the functions transferred under this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Commission in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this section shall apply to the exercise of such functions by the Secretary.

(f) REPORTS.—No later than July 1, 1994, the Secretary shall submit to the appropriate committees of Congress a report on the functions transferred from the Commission to the Department of Transportation under this section. The report shall include—

(1) an assessment of benefits compared to costs associated with each of these functions, both with respect to persons affected directly and to the public generally;

(2) recommendations for the elimination of functions identified as redundant, or substantially the same as functions or services which are performed by the Department of Transportation or other public or private organizations prior to the transfer of functions under this section; and

(3) recommendations to modify or eliminate those functions that do not provide substantial economic or safety benefits to the general public.

(g) CONFORMING AMENDMENTS.—

(1) EXECUTIVE LEVEL PAY RATES.—

(A) Section 5314 of title 5, United States Code, is amended by striking "Chairman, Interstate Commerce Commission.".

(B) Section 5315 of title 5, United States Code, is amended by striking "Members, Interstate Commerce Commission.".

(2) TERMINATION OF COMMISSION.—Sections 10301 through 10308 of title 49, United States Code, are repealed.

(3) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994.

(h) DEFINITIONS.—In this section—

(1) the term "Commission" means the Interstate Commerce Commission;

(2) the term "function" means a function, power, or duty; and

(3) the term "Secretary" means the Secretary of Transportation.

(i) RESCISSION AND TRANSFER OF FUNDS.—Of the funds made available under the heading "Interstate Commerce Commission—Salaries and Expenses" in the Department of Transportation and Related Agencies Appropriations Act, 1994 (Pub. L. 103-122)—

(1) $18,000,000 is rescinded; and

(2) $15,000,000 shall be transferred to and merged with the appropriation in such Act for "DEPARTMENT OF TRANSPORTATION—OFFICE OF THE SECRETARY—Immediate Office of the Secretary".

**SEC. 306. RESCISSION OF FUNDS FROM TENNESSEE VALLEY AUTHORITY FUND.**

Of the funds in the Area and Regional Account of the Tennessee Valley Authority Fund, $23,000,000 is rescinded.

**SEC. 307. RESCISSION OF FUNDS FOR APPALACHIAN REGIONAL COMMISSION.**

Of the funds made available under the heading "Appalachian Regional Commission" in the Energy and Water Development Appropriations Act, 1994 (Pub. L. 103-126), $59,000,000 is rescinded.

**SEC. 308. IMPROVEMENTS TO MANAGEMENT OF VETERANS' HOSPITALS.**

The Secretary of Veterans Affairs, in consultation with the Secretary of Health and Human Services, shall implement for the Veterans Health Administration a financing system known as a "Prospective Payment System". In implementing such a system, the Secretary shall classify each individual receiving health care and services under chapter 17 of title 38, United States Code, in a Diagnosis-Related Group (DRG). The Prospective Payment System implemented by the Secretary shall be modeled as closely as is practicable on the Prospective Payment System in use for the Medicare program under title XVIII of the Social Security Act. The Secretary may, to the extent necessary to implement this section, waive any provisions of law inconsistent with this section. In implementing this section, it shall be a goal of the Secretary to achieve savings in outlays for the Department of Veterans Affairs medical system of not less than $1,000,000,000 over the five-year period of fiscal years 1994 through 1998.

**SEC. 309. RESCISSION OF FUNDS FOR LEGAL SERVICES CORPORATION.**

Of the funds made available under the heading "Legal Services Corporation—Payment to the Legal Services Corporation" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $20,000,000 is rescinded.

**SEC. 310. TERMINATION OF STATE JUSTICE INSTITUTE.**

(a) IN GENERAL.—The State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) is repealed.

(b) RESCISSION OF FUNDS.—Of the funds made available under the heading "State Justice Institute—Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-121), $6,775,000 is rescinded.

**SEC. 311. IMPROVEMENT OF U.S. MARSHALS SERVICE.**

(a) PHASING OUT OF POLITICAL APPOINTEES.—

(1) UNCONFIRMED APPOINTEES.—Any individual serving as a United States marshal to whose appointment to such office the Senate has not given its advice and consent as of the date of the enactment of this Act, may no longer serve in such position on or after such date of enactment, except pursuant to appointment by the Attorney General under the amendments made by this section. The Attorney General shall, before appointing any other individual to such vacated position, offer such vacated position to the individual then serving as deputy marshal in that office of United States marshal. The individual appointed to fill such vacated position shall be appointed for the remainder of the unexpired term of his or her predecessor.

(2) CONFIRMED APPOINTEES.—Any individual who, on the date of the enactment of this Act, is a United States marshal to whose appointment the Senate has given its advice and consent, may not serve in such position on or after December 31, 1994, except pursuant to appointment by the Attorney General under the amendments made by this section. The Attorney General shall, before appointing any other individual to such vacated position, offer such vacated position to the individual then serving as deputy marshal in that office of United States marshal. The individual appointed to fill such vacated position shall be appointed for the remainder of the unexpired term of his or her predecessor.

(b) APPOINTMENT OF UNITED STATES MARSHALS.—Section 561 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "The President shall appoint, by and with the advice and consent of the Senate," and inserting "The Attorney General shall appoint"; and

(2) in subsection (d) by striking "President" and inserting "Attorney General".

(c) OVERALL REDUCTION IN NUMBER OF POSITIONS.—

(1) ELIMINATION OF POSITIONS OF DEPUTY MARSHAL.—The position of deputy marshal in the 70 judicial districts having the least population of all judicial districts shall be abolished, as of—

(A) the date of the enactment of this Act, in a case in which subsection (a)(1) applies; or

(B) the date on which the United States marshal leaves office under the first sentence of subsection (a)(2), in a case in which such subsection applies;

and no equivalent position in such districts shall thereafter be created.

(2) OVERALL REDUCTION.—The number of full-time equivalent positions in the United States Marshals Service as of January 1, 1995, may not exceed the number of full-time equivalent positions in the United States Marshals Service on the date of the enactment of this Act, minus 70.

(d) CONFORMING AMENDMENTS.—(1) Section 562 of title 28, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 37 of such title, are repealed.

(2) Section 569 of such title is amended—

(A) by striking "(a)"; and

(B) by striking subsection (b).

**SEC. 312. RESCISSION OF FUNDS FOR BATF.**

Of the funds made available under the heading "Bureau of Alcohol, Tobacco and Firearms—Salaries and Expenses" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103-123), $2,000,000 is rescinded.

**SEC. 313. RESCISSION OF FUNDS FOR CONSTRUCTION OF NEW FEDERAL OFFICES AND COURTHOUSES.**

Of the funds made available under the heading "General Services Administration—Federal Buildings Fund" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103-123), $288,000,000 is rescinded.

**SEC. 314. LIMITATION ON OFFICE EQUIPMENT AND FURNISHINGS PURCHASES BY DEPARTING MEMBERS OF THE HOUSE OF REPRESENTATIVES.**

The first section of the Act entitled "An Act to authorize the disposition of certain office equipment and furnishings, and for other purposes", enacted October 20, 1974 (2 U.S.C. 59a) is repealed.

**SEC. 315. RESCISSION OF FUNDS FOR EXECUTIVE OFFICE OF THE PRESIDENT.**

(a) IN GENERAL.—Of the funds made available for each account under the heading "Executive Office of the President and Funds Appropriated to the President" in the Treasury, Postal Service, and General Government Appropriations Act, 1994 (Pub. L. 103-123), there is rescinded an amount equal to 5 percent of such funds.

(b) ADDITIONAL OFFICES.—Of the funds made available for each account under the heading "Executive Office of the President" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), there is rescinded an amount equal to 5 percent of such funds.

**SEC. 316. RESCISSION OF FUNDS FOR LEGISLATIVE BRANCH.**

(a) IN GENERAL.—Of the funds made available for each account in the Legislative Branch Appropriations Act, 1994 (Pub. L. 103-69), there is rescinded an amount equal to 7.5 percent of such funds.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) funds made available under the heading "Congressional Operations—Senate"; or

(2) funds for which amounts are rescinded by section 317.

**SEC. 317. RESCISSION OF FUNDS FOR HOUSE FRANKING.**

Of the funds made available under the heading "House of Representatives—Salaries and Expenses" in the Legislative Branch Appropriations Act, 1994 (Pub. L. 103-69), $12,000,000 is rescinded, to be derived from "Official Mail Costs".

**SEC. 318. PROVISIONS RELATING TO ANNUAL PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.**

(a) CALENDAR YEAR 1994.—Notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), the cost of living adjustment (relating to pay for Members of Congress) which would become effective under such provision of law during calendar year 1994 shall not take effect.

(b) LIMITATION ON FUTURE ADJUSTMENTS.—Effective as of December 31, 1994, paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 is amended—

(1) by striking "(2) Effective" and inserting "(2)(A) Subject to subparagraph (B), effective"; and

(2) by adding at the end the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.".

**SEC. 319. SES ANNUAL LEAVE ACCUMULATION.**

(a) IN GENERAL.—Effective on the last day of the last applicable pay period beginning in calendar year 1993, subsection (f) of section 6304 of title 5, United States Code, is repealed.

(b) SAVINGS PROVISION.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304, such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

(c) CONFORMING AMENDMENT.—Section 6304(a) of title 5, United States Code, is amended by striking "(e), (f), and (g)" and inserting "(e) and (g)", effective as of the effective date of subsection (a).

(d) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for

fiscal year 1994 for purposes of payments for accrued leave upon termination of employment, $2,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

**SEC. 320. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.**

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,053,600 during fiscal year 1994;

(2) 1,999,600 during fiscal year 1995;

(3) 1,945,600 during fiscal year 1996;

(4) 1,895,600 during fiscal year 1997; and

(5) 1,851,600 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

(f) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of employee compensation, $2,122,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

**SEC. 321. RESCISSION OF FUNDS FOR TRAVEL ACCOUNTS.**

(a) IN GENERAL.—Of the funds made available in any appropriations Act for fiscal year 1994 to any executive department or agency, or any entity in the legislative branch, for purposes of official travel, 15 percent is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) the Department of Defense, the Department of Justice, the Department of State, the Department of the Treasury, the Department of Veterans Affairs, or any agency or office within any such department; or

(2) the Office of Personnel Management in carrying out its responsibilities under the Voting Rights Act of 1965.

**SEC. 322. TERMINATION OF FEDERAL ADVISORY COMMITTEES.**

(a) TERMINATION.—The entities described in subsection (b) are terminated.

(b) ENTITIES DESCRIBED.—The entities referred to in subsection (a) are the following:

(1) Preservation of Jazz Advisory Commission.

(2) Mt. Saint Helen's Scientific Advisory Board.

(3) Advisory Panel for the Dictionary of Occupational Titles.

(4) U.S. Army Medical Research and Development Advisory Board.

(5) Secretary of the Navy's Advisory Committee on Naval History.

(6) Scientific Advisory Committee on Effects.

(7) Advisory Committee on Publications Subvention.

(8) National Advisory Council on Educational Research and Improvement.

(9) Advisory Panel for the Decontamination of TMI-2.

(10) Technical Advisory Group on Cigarette Fire Safety.

(11) Advisory Commission of Swine Health Protection.

(c) SAVINGS PROVISIONS.—

(1) CONTINUATION OF AGREEMENTS, GRANTS, CONTRACTS, PRIVILEGES, AND OTHER ADMINISTRATIVE ACTIONS.—All agreements, grants, contracts, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by an entity described in subsection (b) in the performance of its functions or by a court of competent jurisdiction with respect to those functions, and

(B) which are in effect on the date of the enactment of this Act, or were final before that date of enactment and are to become effective on or after that date of enactment,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(3) SUITS INVOLVING COUNCIL OR OFFICE.—No suit, action, or other proceeding commenced by or against an entity described in subsection (b), or by or against any individual in the official capacity of such individual as an officer or employee of such an entity, shall abate by reason of the enactment of this section.

**SEC. 323. INCREASE IN THRESHOLD FOR APPLICATION OF DAVIS-BACON ACT.**

(a) IN GENERAL.—Subsection (a) of the first section of the Act of March 3, 1931 (40 U.S.C. 276a et seq.) (known as the "Davis-Bacon Act") is amended by striking "$2,000" and inserting "$100,000".

(b) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of construction activities under the Act of March 3, 1931 (40 U.S.C. 276a et seq.) (known as the "Davis-Bacon Act") or similar prevailing wage requirements applicable to projects assisted by Federal funds, $62,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

**SEC. 324. ELIMINATION OF CERTAIN REPORTS REQUIRED ON CONTRACTS COVERED BY DAVIS-BACON ACT.**

(a) IN GENERAL.—The first sentence of section 2 of the Act of June 13, 1934, entitled "An Act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes" (40 U.S.C. 276c) (known as the "Copeland Act") is amended by striking "shall furnish weekly a statement with respect to the wages paid each employee during the preceding week" and inserting "shall furnish, at least once per month, a statement of compliance with the labor standards provisions of applicable law, certifying the payroll with respect to the wages paid employees during the preceding period for which the statement is furnished, covering each week any contract work is performed".

(b) RESCISSION OF FUNDS.—Of the aggregate funds made available to executive departments and agencies in appropriations Act for fiscal year 1994 for purposes of construction activities submitted under section 2 of the Act of June 13, 1934 (40 U.S.C. 276c) (known as the "Copeland Act"), $55,000,000 is rescinded. The Director of the Office of Management and Budget shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

**SEC. 325. FEES FOR APPLICATIONS FOR ALCOHOL LABELING AND FORMULA REVIEWS.**

(a) IN GENERAL.—The Secretary of the Treasury or his delegate (in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for—

(1) requests for each certificate of alcohol label approval required under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and for each request for exemption from such requirement, and

(2) requests for each formula review, and requests for each statement of process (including laboratory tests and analyses), under such Act or under chapter 51 of the Internal Revenue Code of 1986.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a) shall be determined such that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5,000,000.

(2) MINIMUM FEES.—The fee charged under the program required by subsection (a) shall not be less than—

(A) $50 for each request referred to in subsection (a)(1), and

(B) $250 for each request referred to in subsection (a)(2).

(c) APPLICATION OF SECTION.—Subsection (a) shall apply to requests made on or after the 90th day after the date of the enactment of this Act.

(d) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by subsection (a) (to the extent such amounts do

not exceed $5,000,000) shall be deposited into the Treasury as offsetting receipts and ascribed to the alcohol compliance program of the Bureau of Alcohol, Tobacco, and Firearms.

**SEC. 326. INCREASE IN SEC REGISTRATION FEES.**

(a) SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking "one-fiftieth of 1 per centum" and inserting "1/29 of 1 percent".

(b) SECURITIES EXCHANGE ACT OF 1934.—Sections 13(e)(3) and 14(g)(1)(A)(i) of the Securities Exchange Act of 1934 (47 U.S.C. 78m(e)(3), 78n(g)(1)(A)(i)) are each amended by striking "1/50 of 1 per centum" and inserting "1/29 of 1 percent".

(c) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected under the provisions amended by this section shall be deposited into the Treasury as offsetting receipts and ascribed to the salaries and expenses account of the Securities and Exchange Commission.

(d) APPLICABILITY.—The amendments made by subsections (a) and (b) shall not apply after September 30, 1998.

**SEC. 327. TRAVEL, TOURISM, AND EXPORT PROMOTION FEES.**

(a) TRAVEL AND TOURISM FEES.—

(1) IN GENERAL.—Each State that participates in marketing activities or tourism promotion abroad through the United States Travel and Tourism Administration shall pay a fee in an amount determined by such Administration so that the total receipts from such fees shall equal the budget of such Administration.

(2) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected under this subsection shall be deposited into the Treasury as offsetting receipts and ascribed to the salaries and expenses account of the United States Travel and Tourism Administration.

(b) EXPORT PROMOTION FEES.—

(1) IN GENERAL.—The Secretary of Commerce or his delegate (in this subsection referred to as the "Secretary") shall establish a program requiring the payment of user fees for all services provided to all entities outside the Federal Government by the International Trade Administration in carrying out its export promotion programs.

(2) SETTING OF FEES.—The fees charged under the program required by paragraph (1) shall be determined such that the Secretary estimates that the aggregate of such fees received during the following fiscal years will equal the following amounts:

(A) $100,000,000 during fiscal year 1994.

(B) $212,154,000 during fiscal year 1995.

(C) $224,821,000 during fiscal year 1996.

(D) $237,830,000 during fiscal year 1997.

(E) $251,648,000 during fiscal year 1998.

(3) APPLICATION OF SECTION.—Paragraph (1) shall apply to services provided on or after the 90th day after the date of the enactment of this Act.

(4) DEFINITION.—As used in this subsection, the term "export promotion program" has the meaning given that term in section 201(d) of the export administration amendments act of 1985 (15 U.S.C. 4051(d)) and includes—

(A) the provision of information and technical assistance; and

(B) any form of assistance in the marketing of goods and services.

(5) DEPOSIT AND CREDIT AS OFFSETTING RECEIPTS.—The amounts collected by the Secretary under the program required by paragraph (1) (to the extent such amounts do not exceed the amounts specified in paragraph (2)) shall be deposited into the Treasury as offsetting receipts and ascribed to the operations and administrations account of the International Trade Administration.

## TITLE IV—HUMAN RESOURCES

**SEC. 401. REDUCTION IN FUNDING FOR ARTS AND HUMANITIES PROGRAMS.**

(a) NATIONAL ENDOWMENT FOR THE ARTS.—Section 11(d)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)(1)) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) for fiscal year 1994, $166,823,000,

"(B) for fiscal year 1995, $163,487,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1994 to carry out the activities of the Endowment, whichever is less,

"(C) for fiscal year 1996, $160,217,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1995 to carry out the activities of the Endowment, whichever is less,

"(D) for fiscal year 1997, $157,012,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1996 to carry out the activities of the Endowment, whichever is less, and

"(E) for fiscal year 1998, $153,872,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1997 to carry out the activities of the Endowment, whichever is less.".

(b) NATIONAL ENDOWMENT FOR THE HUMANITIES.—Section 11(d)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)(2)) is amended by striking subparagraphs (A), (B), and (C), and inserting the following:

"(A) for fiscal year 1994, $173,941,000,

"(B) for fiscal year 1995, $170,462,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1994 to carry out the activities of the Endowment, whichever is less,

"(C) for fiscal year 1996, $167,053,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1995 to carry out the activities of the Endowment, whichever is less,

"(D) for fiscal year 1997, $163,712,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1996 to carry out the activities of the Endowment, whichever is less, and

"(E) for fiscal year 1998, $160,438,000 or an amount equal to 98 percent of the total amount appropriated for fiscal year 1997 to carry out the activities of the Endowment, whichever is less.".

(c) SMITHSONIAN INSTITUTION.—Notwithstanding any other law, the funds appropriated for the Smithsonian Institution for fiscal year 1994, 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(d) NATIONAL GALLERY OF ART.—Notwithstanding any other law, the funds appropriated for the National Gallery of Art for fiscal year 1994, 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(e) CORPORATION FOR PUBLIC BROADCASTING.—Notwithstanding any other law, the funds appropriated for the Corporation for Public Broadcasting for fiscal year 1995, 1996, 1997, or 1998 may not be obligated in an amount that exceeds 98 percent of the funds appropriated for such purpose for the preceding fiscal year.

(f) RESCISSION OF FUNDS.—Of the funds made available under each of the headings "National Endowment for the Arts", "National Endowment for the Humanities", "Smithsonian Institution", and "National Gallery of Art" in the Department of the Interior and Related Agencies Appropriations Act, 1994 (Pub. L. 103-138), 2 percent is rescinded.

**SEC. 402. ELIMINATION OF OPERATING SUBSIDIES FOR VACANT PUBLIC HOUSING.**

(a) IN GENERAL.—Section 9(a)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(B)) is amended—

(1) in clause (iv), by striking "and" at the end;

(2) in clause (v), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(vi) no payment may be provided under this section for any dwelling unit that has been vacant for a period of 180 days or more unless such unit is vacant because of comprehensive modernization, major reconstruction, demolition, or disposition activities that have been funded or approved.".

(b) ELIMINATION OF ANNUAL CONTRIBUTION RESERVE.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended by striking paragraph (3).

(c) RECAPTURE OF ANNUAL CONTRIBUTION RESERVE.—The Secretary of Housing and Urban Development shall recapture any amounts reserved from annual contributions for public housing agencies and deposited in accounts established on behalf of the agencies pursuant to paragraph (3) of section 14(p) of the United States Housing Act of 1937 (as in effect immediately before the date of the enactment of this Act).

(d) RESCISSION OF FUNDS.—Of the funds made available under the heading "Department of Housing and Urban Development—Housing Programs—Payments for Operation of Low-Income Housing Projects" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124), $54,000,000 is rescinded.

**SEC. 403. SUBSTITUTION OF VOUCHER ASSISTANCE FOR PUBLIC HOUSING NEW CONSTRUCTION.**

(a) TERMINATION OF ASSISTANCE FOR CONSTRUCTION OF PUBLIC HOUSING.—

(1) LOAN AUTHORITY.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may not enter into any new commitment to make loans under section 4 of the United States Housing Act of 1937 to public housing agencies for the development or acquisition of public housing projects by such agencies.

(2) CONTRIBUTION AUTHORITY.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may not enter into any new contract to make contributions under section 5 of the United States Housing Act of 1937 to public housing agencies for the development or acquisition of public housing projects by such agencies.

(3) EXISTING COMMITMENTS.—After the date of the enactment of this Act, the Secretary of Housing and Urban Development may make contributions and loans for the development or acquisition of public housing projects only pursuant to legally binding commitments to make such loans or contracts for such contributions entered into on or before the date of the enactment of this Act.

(4) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply to public housing developed pursuant to a contract between the Secretary of Housing

and Urban Development and an Indian housing authority.

(5) DEFINITIONS.—For purposes of this section, the terms "Indian housing authority", "project", "public housing", and "public housing agency" have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

(b) PERMISSIBLE USES.—Vouchers for rental assistance provided with the amounts made available under this section may be used for the rental of dwelling units or costs of residency, as determined by qualified voucher recipients.

(c) RESCISSION AND TRANSFER OF FUNDS.—Of the funds made available under the heading "Department of Housing and Urban Development—Housing Programs—Annual Contributions for Assisted Housing" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Pub. L. 103-124)—

(1) $367,000,000 is rescinded from the total amount under such heading and from the amount specified under such heading for the development or acquisition cost of public housing; and

(2) $230,701,000 of the amount specified under such heading for the development or acquisition cost of public housing shall be reallocated to and merged with the amount specified under such heading for the housing voucher program under section 8(o) of the United States Housing Act of 1937.

**SEC. 404. REFORM OF HUD MULTIFAMILY PROPERTY DISPOSITION.**

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

**"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.**

"(a) GOALS.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iii) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational staff and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goal specified in subsection (a)(3)(A), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of

multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraphs (A) through (C) of subsection (b)(2) that does not otherwise receive project-based assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining affordability, as defined in paragraph (3)(B).

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) with at least an equivalent increase in units made affordable to very low-income persons within unsubsidized projects;

"(ii) low-income tenants residing in units otherwise requiring project-based assistance under subparagraph (A) or (B) upon disposition receive section 8 tenant-based assistance; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in unsubsidized projects, the contract shall at least be sufficient to provide—

"(i) project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for low-income families. Actions taken pursuant to this paragraph may be taken in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary annually.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms which will ensure that—

"(i) at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions authorized by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—In connection with projects referred to in subsection (e), make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year

period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall make available tenant-based rental assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A), and the Secretary shall take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance.

"(g) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(h) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—Notwithstanding subparagraph (A), to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area (as determined by the Secretary under section 8(c) of the United States Housing Act of 1937) as the Secretary may prescribe.

"(B) UP-FRONT GRANTS AND LOANS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to—

"(i) provide project-based section 8 rental assistance; and

"(ii)(I) provide up-front grants for the necessary cost of rehabilitation; or

"(II) pay for any cost to the Government, as defined in section 502 of the Congressional Budget Act, for loans made pursuant to subsection (f)(1).

"(i) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities which represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) USE OF FUNDS.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly, and to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section for the provision of technical assistance under this section.

"(ii) SOURCE OF FUNDS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(j) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a project, the Secretary shall notify the unit of general local government and the State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B), and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for a project, shall notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan and give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—Where the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e). If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(k) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(l) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, which report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after enactment of the Housing and Community Development Act of 1993 and actions taken in years prior to such enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments, and the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

**SEC. 405. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE.**

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1993.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94-241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1993.

## TITLE V—SOCIAL SERVICES AND RETIREMENT

**SEC. 501. INCREASE IN RETIREMENT AGE UNDER FERS TO 65.**

(a) IN GENERAL.—Chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VIII—SPECIAL RULES FOR CERTAIN POST-1993 NEW EMPLOYEES AND MEMBERS

**"§ 8481. Applicability**

"(a) This subchapter sets forth special rules in conformance with which this chapter shall be applied with respect to any employee who first becomes an employee subject to this chapter, or who is first elected as a Member, after December 31, 1993.

"(b) Nothing in this subchapter shall be considered to apply with respect to any employee or Member not described in subsection (a) or to have any effect except for the purpose referred to in such subsection.

**"§ 8482. Immediate retirement**

"Deem section 8412 to be amended as follows:

"(1) Subsection (c) is amended by striking '62' and inserting '65'.

"(2) Subsections (a), (b), (f), and (g) are repealed.

**"§ 8483. Deferred retirement**

"Deem section 8413 to be amended as follows:

"(1) Subsection (a) is amended by striking '62' and inserting '65'.

"(2) Subsection (b) is repealed.

**"§ 8484. References to age 62**

"(a) Deem section 8415 to be amended as follows:

"(1) Subsection (f) is repealed.

"(2) Subsection (g)(2)(B) is amended by striking 'is at least 62 years of age and'.

"(b) Deem section 8442 to be amended in subsections (c)(2)(B) and (g)(2)(B) by striking '62' each place it appears and inserting '65'.

"(c) Deem section 8452(b)(1) to be amended by striking 'sixty-second' and inserting 'sixty-fifth'.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"SPECIAL RULES FOR CERTAIN POST-1993 NEW EMPLOYEES AND MEMBERS

"8481. Applicability.

"8482. Immediate retirement.

"8483. Deferred retirement.

"8484. References to age 62.".

**SEC. 502. PROVISION RELATING TO GOVERNMENT CONTRIBUTIONS TO THE THRIFT SAVINGS PLAN.**

Section 8432(c)(2)(B) of title 5, United States Code, is amended by adding at the end the following:

"Clause (ii) shall not apply with respect to any employee or Member described in section 8481(a).".

**SEC. 503. DEFERRAL UNTIL AGE 62 OF COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES WHO FIRST ENTERED MILITARY SERVICE ON OR AFTER JANUARY 1, 1994.**

Section 1401a(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of a member or former member under age 62 (other than a member retired under chapter 61 of this title) who first became a member on or after January 1, 1994, such increase shall not become payable as part of the retired pay of the member or former member until the month in which the member or former member becomes 62 years of age.".

**SEC. 504. CONSOLIDATION OF CERTAIN SOCIAL SERVICES PROGRAMS INTO A SINGLE BLOCK GRANT PROGRAM.**

(a) AT-RISK CHILD CARE PROGRAM MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.—

(1) CONSOLIDATION OF SERVICES.—Section 2002(a)(2)(A) of the Social Security Act (42 U.S.C. 1397a(a)(2)(A)) is amended by inserting "(including services that could have been provided under section 402(i), as in effect immediately before the effective date of section 504 of the Common Cents Deficit Reduction Act of 1993)" after "child care services".

(2) CONSOLIDATION OF FUNDING.—Section 2003(c) of such Act (42 U.S.C. 1397b(c)) is amended—

(A) in paragraph (4), by striking "and";

(B) in paragraph (5), by striking "each fiscal year after fiscal year 1989." and inserting "the fiscal years 1990, 1991, 1992, 1993, and 1994; and"; and

(C) by adding at the end the following:

"(6) $2,976,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(b) CERTAIN DISCRETIONARY SOCIAL SERVICES PROGRAMS MERGED INTO PROGRAM OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES BUT LEFT DISCRETIONARY.—

(1) CONSOLIDATION OF SERVICES.—Section 2002 of such Act (42 U.S.C. 1397a) is amended—

(A) in subsection (a), by adding at the end the following:

"(3) In addition to payments pursuant to paragraph (1), the Secretary may make payments to a State under this title for a fiscal year in an amount equal to its additional allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

"(4) For purposes of paragraph (3)—

"(A) services which are directed at the goals set forth in section 2001 include services that could have been provided under—

"(i) the Community Services Block Grant Act;

"(ii) the Child Care and Development Block Grant Act of 1990;

"(iii) title III or VII of the Older Americans Act of 1965; or

"(iv) the State Dependent Care Development Grants Act,

as in effect immediately before the effective date of section 504 of the Common Cents Deficit Reduction Act of 1993; and

"(B) expenditures for such services may include expenditures described in paragraph (2)(B).'"; and

(B) in each of subsections (b), (c), and (d), by inserting "or additional allotment" after "allotment" each place such term appears.

(2) CONSOLIDATION OF FUNDING.—Section 2003 of such Act (42 U.S.C. 1397b) is amended by adding at the end the following:

"(d) The additional allotment for any fiscal year to each State shall be determined in the same manner in which the allotment for the fiscal year is determined for the State under the preceding subsections of this section, except that, in making such determination the following amounts shall be used in lieu of the amount specified in subsection (c):

"(1) $2,301,000,000 for the fiscal year 1995;

"(2) $2,359,000,000 for the fiscal year 1996;

"(3) $2,419,000,000 for the fiscal year 1997; and

"(4) $2,478,000,000 for the fiscal year 1998.".

(c) CONFORMING AMENDMENTS AND REPEALS.—

(1) COMMUNITY SERVICES BLOCK GRANT ACT.—The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is hereby repealed.

(2) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(3) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by striking titles III and VII.

(4) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—The State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.) is hereby repealed.

(5) AT-RISK CHILD CARE PROGRAM.—

(A) PROGRAM AUTHORITY.—Section 402 of the Social Security Act (42 U.S.C. 602) is amended—

(i) in subsection (g)(7), by striking "and subsection (i)"; and

(ii) by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by striking subsection (n).

(d) EFFECTIVE DATE.—The amendments and repeals made by this section shall take effect on October 1, 1994.

**SEC. 505. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.**

(a) IN GENERAL.—Section 401(b)(8) the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

**SEC. 506. ELIMINATION OF EDUCATION PROGRAMS THAT HAVE LARGELY ACHIEVED THEIR PURPOSE.**

(a) PUBLIC LIBRARY CONSTRUCTION.—

(1) REPEAL.—Title II of the Library Services and Construction Act (20 U.S.C. 355a et seq.) is repealed.

(2) CONFORMING AMENDMENT.—Section 4(a)(2) of such Act (20 U.S.C. 351b(a)(2)) is repealed.

(b) FOLLOW THROUGH PROGRAM.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(c) LAW-RELATED EDUCATION.—Section 1565 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2965) is repealed.

(d) LAW SCHOOL CLINICAL EXPERIENCE PROGRAM.—Part G of title IX of the Higher Education Act of 1965 (20 U.S.C. 1132u et seq.) is repealed.

(e) RESCISSION OF FUNDS.—

(1) LIBRARY CONSTRUCTION.—Of the funds made available under the heading "Department of Education—Libraries" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-112), $17,792,000 is rescinded, to be derived from public library construction.

(2) SCHOOL IMPROVEMENT PROGRAMS.—Of the funds made available under the heading "Department of Education—School Improvement Programs" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-112)—

(A) $8,478,000 is rescinded, to be derived from the follow through program; and

(B) $5,952,000 is rescinded, to be derived from the law-related education program.

(3) LAW SCHOOL CLINICAL EXPERIENCE.—Of the funds made available under the heading "Department of Education—Higher Education" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-112), $14,920,000 is rescinded, to be derived from the law school clinical experience program.

## TITLE VI—AGRICULTURE AND HEALTH CARE

**SEC. 601. DEPARTMENT OF AGRICULTURE REORGANIZATION.**

(a) CLOSURE AND CONSOLIDATION OF OFFICES.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the Secretary of Agriculture shall close or consolidate not less than 1,200 field offices of the agencies of the Department of Agriculture described in subsection (d).

(b) PURPOSE OF CLOSURE AND CONSOLIDATION.—In addition to reducing expenditures of the Department of Agriculture, the closure and consolidation of field offices pursuant to this section is intended to improve services provided to agricultural producers in the United States through the greater use of multipurpose field offices combining the services of more than one of the agencies described in subsection (d).

(c) CORRESPONDING REDUCTIONS AND REORGANIZATION.—As part of the closure and consolidation of field offices under subsection (a), the Secretary of Agriculture shall—

(1) eliminate not less than 7,500 full-time employment positions in the Department of Agriculture; and

(2) reorganize the headquarters corresponding to the agencies described in subsection (d).

(d) FIELD OFFICES DESCRIBED.—The field offices to be closed and consolidated under this section shall be selected from among the field offices of the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation.

(e) RESCISSION OF FUNDS.—Of the funds made available for the Department of Agriculture in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Pub. L. 103-111), $13,000,000 is rescinded. The Secretary of Agriculture shall allocate such rescission among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

**SEC. 602. REDUCTION IN TRIPLE BASE FOR DEFICIENCY PAYMENTS FOR BASIC AGRICULTURAL COMMODITIES UNDER AGRICULTURE PROGRAMS.**

(a) WHEAT.—Section 107B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b-

3a(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(b) FEED GRAINS.—Section 105B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1444f(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(c) UPLAND COTTON.—Section 103B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1444-2(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

(d) RICE.—Section 101B(c)(1)(C)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(C)(ii)) is amended by striking "85 percent" and inserting "82.5 percent".

**SEC. 603. IMPOSITION OF 20 PERCENT COINSURANCE ON CLINICAL LABORATORY SERVICES UNDER MEDICARE.**

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1994.

**SEC. 604. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES UNDER MEDICARE.**

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all the per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(2) PART B.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(F) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less a copayment amount equal to 20 percent of the average of all per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year);".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of such Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) COVERAGE OF COST SHARING UNDER THE QUALIFIED MEDICARE BENEFICIARY PROGRAM FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF POVERTY.—Section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking "and" at the end of clause (ii), and

(2) by adding at the end the following new clause:

"(iv) for making medical assistance available for the medicare cost-sharing consisting of the coinsurance applicable to home health services under sections 1813(a)(5) and 1833(a)(2)(F) for individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved; and".

(c) EFFECTIVE DATES.—

(1) MEDICARE.—The amendments made by subsection (a) shall apply to home health services furnished on or after January 1, 1994.

(2) MEDICAID.—The amendments made by subsection (b) shall apply to calendar quarters beginning on or after January 1, 1994, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

**SEC. 605. RELATING MEDICARE PART B PREMIUM TO INCOME FOR CERTAIN HIGH INCOME INDIVIDUALS.**

(a) INCREASE IN PREMIUM.—

(1) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following:

"(g)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) is equal to or exceeds the sum of the threshold amount described in paragraph (4) and $25,000, the amount of the monthly premium for the calendar year shall be increased by an amount such that the total monthly premium (determined without regard to subsection (b)) is equal to 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) Notwithstanding the previous subsections of this section, in the case of an individual not described in paragraph (1) whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) exceeds the threshold amount described in paragraph (4), the amount of the monthly premium for the calendar year shall be increased by an amount which bears the same ratio to the amount of the increase determined under paragraph (1) as such excess bears to $25,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(3) Using information provided by the Secretary of the Treasury under section 6103(l)(14) of the Internal Revenue Code of 1986, the Secretary shall determine the actual modified adjusted gross income of individuals enrolled in this part during a taxable year and adjust the monthly premium applicable to an individual during a calendar year to take into account any overpayments or underpayments in the premium during the previous calendar year resulting from the application of this subsection.

"(4) In this subsection and section 1813(c), the term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $70,000,

"(B) $90,000 in the case of an individual who files a joint return under section 6013 of the Internal Revenue Code of 1986, and

"(C) zero in the case of an individual who—

"(i) is married at the close of the taxable year (as determined under section 7703 of the Internal Revenue Code of 1986) but does not file a joint return for such year, and

"(ii) does not live apart from the individual's spouse at all times during the taxable year.".

(2) CONFORMING AMENDMENT.—Section 1839(f) of such Act (42 U.S.C. 1395r(f)) is amended by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (g))".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning after February 1994 in taxable years beginning after December 31, 1993.

(b) REPORTING REQUIREMENT FOR BENEFICIARIES.—Title XVIII of the Social Security Act is amended by adding at the end the following:

"REPORT TO SECRETARY ON ESTIMATED MODIFIED ADJUSTED GROSS INCOME

"SEC. 1893. (a) IN GENERAL.—

"(1) INDIVIDUALS COVERED THROUGHOUT YEAR.—Not later than November 1 of each year (beginning with 1994), each individual enrolled under part B shall submit to the Secretary (in such form and manner as the Secretary may require, in consultation with the Secretary of the Treasury) an estimate of the individual's modified adjusted gross income anticipated for the taxable year ending with or within the following calendar year, to be used (subject to section 1839(g)(3)) to determine whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) for such following calendar year.

"(2) SPECIAL RULE FOR FIRST YEAR OF COVERAGE.—For the first year in which an individual is enrolled under part B, the individual shall submit to the Secretary (at such time and in such form and manner as the Secretary may require, in consultation with the Secretary of the Treasury) an estimate of the individual's modified adjusted gross income anticipated for the taxable year ending with December 31 of such year, to be used to determine whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) for such year.

"(b) SPECIAL RULE FOR 1994.—Not later than 60 days after the date of the enactment of this section, each individual described in subsection (a) shall submit to the Secretary an estimate of the individual's modified adjusted gross income for the taxable year ending December 1993, to be used to determine (subject to section 1839(g)(3)) whether the individual is to be subject to an increase in the monthly part B premium under section 1839(g) during 1994.

"(c) MODIFIED ADJUSTED GROSS INCOME DEFINED.—In subsection (a), the term 'modified adjusted gross income' means, with respect to an individual for a taxable year, the individual's adjusted gross income under the Internal Revenue Code of 1986, determined

without regard to sections 931 or 933 of such Code.".

(c) DISCLOSURE OF CERTAIN TAX INFORMATION BY SECRETARY OF TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(14) DISCLOSURE OF RETURN INFORMATION TO MEANS-TEST MEDICARE.—

"(A) IN GENERAL.—The Secretary shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the officers and employees of such Administration return information necessary to determine the modified adjusted gross income (as defined in section 1893(c) of the Social Security Act) of any medicare beneficiary (as defined in paragraph (12)(E)), to be used to determine whether the beneficiary is to be subject to an increase in the monthly part B premium under section 1839(g) of such Act.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officer or employee of the Health Care Financing Administration receiving return information under subparagraph (A) shall use such information only for purposes of, and to the extent necessary in, establishing the modified adjusted gross income (as so defined) of any medicare beneficiary (as so defined)."

(2) CONFORMING AMENDMENTS.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (13)" each place it appears and inserting "(13), or (14)".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to information for taxable years beginning after December 31, 1993.

**SEC. 606. INCREASE IN MEDICARE HOSPITAL INSURANCE DEDUCTIBLE FOR CERTAIN HIGH-INCOME INDIVIDUALS.**

(a) INCREASE IN DEDUCTIBLE.—

(1) IN GENERAL.—Section 1813 of the Social Security Act (42 U.S.C. 1395e) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income in a taxable year ending with or within a calendar year (as reported by the individual under section 1893(a)) exceeds the threshold amount (described in section 1839(g)(4)), the inpatient hospital deductible otherwise applicable with respect to an individual for a spell of illness that begins during such year shall be increased—

"(i) in the case of an individual whose modified adjusted gross income exceeds such threshold amount by less than $5,000, by 33 percent of such deductible; or

"(ii) in the case of any other such individual, by 33 percent of such deductible for each $5,000 by which the individual's modified adjusted gross income exceeds such threshold amount.

"(B) Notwithstanding subparagraph (A), the total inpatient hospital deductible applicable to an individual for a spell of illness may not exceed—

"(i) for 1994, $2,000; and

"(ii) for any succeeding year, the amount described in this subparagraph for the preceding calendar year, changed and adjusted in the same manner as the inpatient hospital deductible is changed and adjusted under subsection (b)(1).

"(2) Using information provided by the Secretary of the Treasury under 6103(l)(14), the Secretary shall determine the actual modified adjusted gross income of individuals enrolled in this part during a taxable year and apply the following rules:

"(A) In the case of an individual subject to an increase in the inpatient hospital deductible under paragraph (1) during a year whose modified adjusted gross income did not exceed the threshold amount (described in section 1839(g)(4)) for such year, the Secretary shall refund to the individual the amount of such increase.

"(B) In the case of an individual to which the inpatient hospital deductible applied for inpatient hospital services furnished in a year and whose actual modified adjusted gross income exceeded the threshold amount (described in section 1839(g)(4)) for such year, if such individual was not subject to an increase in such deductible during the year under paragraph (1)—

"(i) the Secretary shall collect the amount by which the deductible would have been increased if the modified adjusted gross income reported by the individual under section 1893(a) was equal to the individual's actual modified adjusted gross income from the hospital that furnished the inpatient hospital services (either directly or through reductions in payments to the hospital for subsequently furnished services); and

"(ii) the individual shall be liable to the hospital for payment of such amount.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to inpatient hospital services for which a spell of illness (as defined in section 1861(a) of the Social Security Act) begins after February 1994 in taxable years beginning after December 31, 1993.

(b) CONFORMING AMENDMENT TO REPORTING REQUIREMENT FOR BENEFICIARIES.—Section 1893 of such Act, as added by section 605(b), is amended—

(1) in subsection (a), by striking "part B" each place it appears in paragraphs (1) and (2) and inserting "part B or entitled to benefits under part A"; and

(2) by striking "1839(g)" each place it appears in subsections (a) and (b) and inserting the following: " 1839(g) or an increase in the inpatient hospital deductible under section 1813(c)".

(c) CONFORMING AMENDMENT TO DISCLOSURE REQUIREMENT FOR SECRETARY OF THE TREASURY.—Section 6103(l)(14)(A) of the Internal Revenue Code of 1986, as added by section 605(c), is amended by striking "1839(g)" and inserting the following: " 1839(g) or an increase in the inpatient hospital deductible under section 1813(c)".

**SEC. 607. ESTABLISHMENT OF STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES.**

(a) IN GENERAL.—

(1) STANDARD PAYMENT RATES DESCRIBED.—Title XVIII of the Social Security Act is amended by inserting after section 1889 the following new section:

"STANDARD PAYMENT RATES FOR HOME HEALTH SERVICES

"SEC. 1890. (a) IN GENERAL.—Notwithstanding section 1814(b)(1), section 1833(a)(2)(A), or any other provision of this title, the amount of payment made under this title for home health services furnished by a home health agency on or after January 1, 1994, shall equal the adjusted standard per visit payment rate determined under subsection (b) for the category of home health services involved (as defined in subsection (d)(1)) for the fiscal year during which the services are furnished.

"(b) DETERMINATION OF ADJUSTED STANDARD PER VISIT PAYMENT RATES.—

"(1) IN GENERAL.—The adjusted standard per visit payment rate for home health services furnished in a fiscal year is equal to—

"(A) the base per visit rate for the category of home health services involved for the fiscal year determined under paragraph (2), adjusted for area wage differences under paragraph (3); and

"(B) in the case of home health services in the category of services described in subsection (d)(1)(A) that involve the furnishing of non-routine medical supplies directly identifiable as services for an individual patient (but not including durable medical equipment, prosthetic devices, or orthotics and prosthetics), the amount described in subparagraph (A) increased by the medical supply add-on described in paragraph (4).

"(2) BASE PER VISIT RATE.—

"(A) INITIAL RATE.—The base per visit rate for a category of home health services furnished by a home health agency in fiscal year 1994 shall be an amount equal to 93 percent of the mean of the labor-related and nonlabor costs for that category of services utilized for purposes of computing limits under section 1861(v)(1)(L) for cost reporting periods beginning on or after July 1, 1993, and before July 1, 1994, increased by the cost reporting period adjustment factor for January 1994 (as specified in the regulation setting forth such limits).

"(B) SUBSEQUENT YEARS.—The base per visit rate for a category of home health services furnished by a home health agency in a fiscal year beginning on or after October 1, 1994 is the base per visit rate for that category of services for the preceding fiscal year increased by the home health market basket percentage increase (as defined in subsection (d)(2)) for such fiscal year.

"(3) ADJUSTING FOR AREA WAGE LEVELS.—The Secretary shall adjust the base per visit rate determined under paragraph (2) for home health services furnished by a home health agency for a fiscal year by utilizing the area wage index applicable during the fiscal year under section 1886(d)(3)(E) to hospitals located in the geographic area in which the agency is located (determined without regard to whether such hospitals have been reclassified to a new geographic area pursuant to section 1886(d)(8)(B), a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10)).

"(4) MEDICAL SUPPLY ADD-ON DESCRIBED.—The medical supply add-on described in this paragraph is equal to—

"(A) for fiscal year 1994, the estimated national average cost of non-routine medical supplies directly identifiable as services for an individual patient (but not including durable medical equipment, prosthetic devices, or orthotics and prosthetics) associated with a home health visit, as estimated by the Secretary based upon the best data available and updated through fiscal year 1994 by the Secretary's estimate of the increase in the medical equipment and supplies component of the supplies and rental consumer price index for all urban consumers (U.S. city average), from the end of the period from which the data was drawn through fiscal year 1994; and

"(B) for a subsequent fiscal year, the add-on for the preceding fiscal year increased by the Secretary's estimate of the percentage increase in the index referred to in subparagraph (A) for the fiscal year involved.

"(c) COST REPORTING REQUIREMENTS.—

"(1) IN GENERAL.— Not later than January 1, 1994, the Secretary shall implement a system under which a random sample of home

health agencies shall submit cost reports. Cost reports submitted under such system shall be used solely for purposes of comparing the costs of home health agencies with the adjusted standard payment rates established under subsection (b).

"(2) SYSTEM DESCRIBED.—The system developed under paragraph (1) shall—

"(A) utilize a different random sample of agencies for each 12-month period,

"(B) include in such random sample 5 percent of all home health agencies, and

"(C) to the greatest extent practicable and consistent with the preceding provisions of this paragraph, avoid requiring a home health agency to submit a cost report pursuant to paragraph (1) more than once in any 5-year period.

"(3) REPORTS OF ADDITIONAL AGENCIES.—Any home health agency that is not required to submit a cost report pursuant to paragraph (1) for a cost reporting period may be required by the Secretary to submit a simplified cost report for such period, in accordance with regulations issued by the Secretary. The Secretary may use such reports solely for the purposes described in such paragraph.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'category of home health services' means any one of the following home health services:

"(A) Skilled nursing services.

"(B) Physical therapy services.

"(C) Occupational therapy services.

"(D) Speech therapy services.

"(E) Medical social services.

"(F) Home health aide services.

"(2) The term 'home health market basket percentage increase' means, with respect to a fiscal year, the percentage by which the cost of the mix of goods and services comprising home health services will exceed the cost of such mix of goods and services for the preceding fiscal year, as estimated by the Secretary before the fiscal year begins.".

(2) EXCEPTIONS AND ADJUSTMENTS FOR COSTS SIGNIFICANTLY IN EXCESS OF PAYMENTS.—The Secretary of Health and Human Services shall provide by regulation for such exceptions and adjustments to the payment amounts established for home health services under section 1890(a) of the Social Security Act (as added by paragraph (1)) as the Secretary deems appropriate for services for which a home health agency incurs costs that significantly exceed such payment amounts for reasons beyond the agency's control, subject to any limits the Secretary may establish to ensure that such an exception or adjustment does not result in the reimbursement of any costs that the Secretary does not find to be reasonable.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO PART A.—(A) Section 1814(b) of such Act (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, and 1890".

(B) Section 1813(a)(5) of such Act, as added by section 604(a)(1), is amended by striking "the average of all the per visit costs" and all that follows and inserting "the payment amount determined for such services under section 1890(a).".

(2) AMENDMENTS RELATING TO PART B.—(A) Section 1832(a)(2)(F) of such Act, as added by section 604(a)(2), is amended—

(i) by amending clause (i) to read as follows:

"(i) the payment amount determined for such service under section 1890(a), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A);"; and

(ii) in the matter following clause (iii), by striking "the average of all the per visit costs" and all that follows and inserting "the payment amount determined for such services under section 1890(a).".

(B) Section 1861(v)(l)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) Clauses (i), (ii), and (iii) shall not apply to any services furnished on or after January 1, 1994.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during cost reporting periods beginning on or after January 1, 1994.

**SEC. 608. ELIMINATING FEDERAL SUPPORT FOR HONEY.**

(a) Section 207(a) of the Agricultural Act of 1949 is amended to read as follows:

"(a) IN GENERAL.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations, except that for the 1994 and 1995 crops, the price of honey shall be supported through recourse loans.

"(1) For the 1991 through 1993 crop years, the rate of support shall be not less than 53.8 cents per pound.

"(2) For the 1994 and 1995 crop years, the Secretary shall provide recourse loans to producers at such a rate that minimizes costs and forfeitures, except that such rate shall not be less than 44 cents a pound. Section 407 shall not be applicable to honey forfeited to the Commodity Credit Corporation under loans made under this paragraph.

"(3) A producer who fails to repay a loan made under paragraph (2) by the end of the crop year following the crop year for which such loan was made shall be ineligible for a loan under this section for subsequent crop years, except that the Secretary may waive this provision in any case where in which the Secretary determines that the failure to repay the loan was due to hardship conditions or circumstances beyond the control of the producer.".

(b) Section 207(b) of the Agricultural Act of 1949 is amended by striking "for a crop" and inserting "for the 1991 through 1993 crops".

(c) Section 207(c) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1993".

(d) Section 207(e) of the Agricultural Act of 1949 is amended by—

(1) striking subparagraphs (D) through (G);

(2) inserting "and" after the semicolon following subparagraph (B); and

(3) changing the semicolon following subparagraph (C) to a period.

(e) Section 207(j) of the Agricultural Act of 1949 is amended by striking "1998" and inserting "1995".

(f) Section 405(a) of the Agricultural Act of 1949 is amended by striking in the first sentence "section 405A" and inserting "sections 207 and 405A".

(g) Section 405A(a) of the Agricultural Act of 1949 is amended by striking all that follows "1992 crop year," and inserting "and $150,000 in the 1993 crop year.".

(h) A provision of this section may not affect the liability of any person under any provision of law as in effect before the effective date of the provision.

## TITLE VII—ENFORCEMENT

**SEC. 701. DEDICATION OF SAVINGS TO DEFICIT REDUCTION.**

(a) DIRECT SPENDING.—None of the changes in direct spending and receipts resulting from this Act shall be reflected in estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) DISCRETIONARY SPENDING.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays), as adjusted, set forth in 601(a)(2) of the Congressional Budget Act of 1974 for each of fiscal years 1994 through 1998 as follows:

(1) For fiscal year 1994, reduce new budget authority by $5,477,000,000 and reduce outlays by $2,987,000,000.

(2) For fiscal year 1995, reduce new budget authority by $8,198,000,000 and reduce outlays by $6,967,000,000.

(3) For fiscal year 1996, reduce new budget authority by $9,546,000,000 and reduce outlays by $9,372,000,000.

(4) For fiscal year 1997, reduce new budget authority by $10,376,000,000 and reduce outlays by $11,080,000,000.

(5) For fiscal year 1998, reduce new budget authority by $11,211,000,000 and reduce outlays by $12,113,000,000.

(c) SECTION 602 ALLOCATIONS.—

(1) HOUSE APPROPRIATIONS COMMITTEE.—The allocations in effect under section 602(a)(1) of the Congressional Budget Act of 1974 for fiscal year 1994 for the Committee on Appropriations of the House of Representatives are reduced by $5,477,000,000 in outlays and by $3,056,000,000 in budget authority.

(2) SENATE APPROPRIATIONS COMMITTEE.—The allocations in effect under section 602(a)(2) of the Congressional Budget Act of 1974 for fiscal year 1994 for the Committee on Appropriations of the Senate are reduced by $5,477,000,000 in outlays and by $3,056,000,000 in budget authority.

(3) SUBALLOCATIONS.—Each Committee on Appropriations is authorized and directed to immediately adjust its suballocations among its subcommittees for fiscal year 1994 to reflect the lower allocations provided by subsection (a) in a manner that accurately reflects the changes in law made by this Act and to promptly report to its House of Congress suballocations revised under this subsection.

(4) EFFECT.—The allocations and suballocations as adjusted by this section shall be deemed to be allocations made under section 602(a)(1) and suballocations made under section 602(b)(1) of the Congressional Budget Act of 1974.

(5) SECTION 601.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "or as adjusted pursuant to section 701(b) of the Common Cents Deficit Reduction Act of 1993" before the period at the end.

# EXTENSIONS OF REMARKS

## ENVIRONMENTAL TECHNOLOGIES ACT OF 1993

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. BROWN of California. Mr. Speaker, today, we are introducing the Environmental Technologies Act of 1993, a bill designed to promote the development of technologies that are more environmentally sound and that will contribute to the long-term economic growth of the Nation. There are 21 of us joining in this effort today, along with Representatives ESHOO, KLEIN, MINGE, MORELLA, and SWETT who have dropped in separate environmental technology legislation over the past few days. Together, we represent a significant part of the membership of the House Science, Space, and Technology Committee who will be working on this issue in the second session of the 103d Congress.

This bill joins other legislative proposals in the House and Senate on this topic. Mr. STUDDS' legislation on environmental technologies exports has been reported from the Merchant Marine and Fisheries Committee. Senator BAUCUS is moving legislation on environmental technologies in the Senate. Other Members in the House, Mr. FINGERHUT, Mr. HOCHBRUECKNER, and Mr. KENNEDY to name a few, have interesting legislative proposals pending. It is my hope that the introduction of this bill will help spur Congress into acting on a comprehensive environmental technologies bill next year.

Our bill presents a comprehensive approach toward achieving the twin goals of environmental quality and economic opportunity. It proposes the improved coordination and use of Federal resources, and the mitigation of market externalities that would otherwise tend to reduce the benefits achievable through the implementation of environmental technologies. The provisions of the legislation address five areas in which science and technology policy improvements can make important contributions toward achieving environmentally sound, long-term economic growth. The proposed science and technology policy initiatives are: First, improved coordination and management of Federal programs that contribute to the development of environmental technologies; second, improved risk-sharing associated with environmental technology development and deployment; third, greater national awareness of the benefits associated with the use of environmental technologies; fourth, increased access to international markets for U.S.-developed environmental technologies; and fifth, improved Government incentives for enhanced environmental technology development.

This legislation uses the term "environmental technologies" to refer to the following: First, technologies that address pollution control and cleanup; second, pollution prevention technologies; and third, technologies, products, and processes which offer significant efficiency improvements in the use of energy and/or materials and are economically viable.

To improve existing Federal programs that contribute to the development of environmental technologies, the legislation calls for the Office of Science and Technology Policy to promote interagency coordination of activities involving environmental technologies, and also amends various science and technology statutes to provide clear authority for engaging in this activity. In addition, the legislation requires the coordination and networking of live cycle assessment activities to facilitate the availability of life cycle assessment methodologies and data.

To help share the risks associated with the development of technologies which contribute substantially to the public as well as the private good, the legislation proposes means for promoting the development and/or demonstration of environmental technologies, for rewarding organizations which have exhibited exceptional performance in developing and using environmental technologies and practices, and for rewarding individuals who develop highly innovative environmental technologies.

To enhance national awareness of the benefits to the public and private sectors associated with environmental technologies, the legislation calls for measures to improve the availability of relevant information, performance data and standards, and educational materials. Provisions in the legislation include the following: Developing an electronic clearinghouse network that would provide more efficient access to information about new environmental technologies, potential markets, and export opportunities; allowing the use of Federal facilities for environmental technology development and demonstration; supporting the development of performance standards for environmental technologies; directing the National Science Foundation to support the development of curricula that would promote environmentally sound engineering across all undergraduate technical disciplines; and, developing public education materials to improve the public's understanding of the relationships between technology and the environment.

To enhance the international use of environmental technologies developed and manufactured in the United States, the legislation encourages existing technology transfer and export assistance centers to provide environmental technology export assistance. The export assistance is to be achieved by the distribution to potential overseas customers of information about the likely benefits due to the implementation of these technologies, by the dissemination of relevant data about international markets to existing and potential exporters in the United States, and by the establishment of a revolving loan and loan guarantee program to promote exports of environmental technologies in coordination with existing export promotion and aid programs.

Finally, the legislation has provisions that call for the Government to establish a strategy for evaluating and purchasing environmental technologies; to study the impacts of environmental regulations on effective environmental technology development; and, to study the impacts of environmental tax incentives and penalties on environmental technology development and deployment.

This legislation attempts to join the public interest in maintaining environmental quality, taking advantage of new economic opportunities, and in helping our private sector acquire more efficient processes and new markets. The green technology market is a large and growing global economic opportunity. Current estimates place the global market at $200 billion 1990, with a growth to $300 billion in the year 2000. Studies estimate that the largest percentage growth will be in environmental services, with the largest total market in pollution control equipment. Many other countries are developing strategic business plans to take advantage of this growing market area.

The private environmental technology sector in the United States is just not getting organized. Many State and local governments have launched initiatives in this area. Federal Government programs are being initiated and expanded. This legislative push comes at a very critical time and will serve to help focus and enhance these separate efforts.

This legislation is the result of many months of work and many days of hearings. Earlier drafts of this bill were reviewed by Federal agencies, State and local government, the private sector, public interest groups, and the academic community. We plan to move briskly on this legislation early in the next session and hope to be in conference with our Senate colleagues as soon as possible after that.

I urge my colleagues to take a careful look at this proposal and join with us in this effort.

SECTION BY SECTION

TITLE I—GENERAL PROVISIONS

Sec. 101. Short Title: "Environmental Technologies Act of 1993;" table of contents.

Sec. 102. Findings.

Sec. 103. Purposes.

Sec. 104. Definitions.

TITLE II—POLICY COORDINATION AND TECHNOLOGY PROGRAMS

SUBTITLE A—POLICY COORDINATION AND PROGRAM PLANNING

Sec. 201. Coordination of Environmental Technology Research and Development Program.—Directs the Director of the Office of Science and Technology Policy to develop mechanisms to assure the coordination of Federal environmental technologies research and development and to develop Federal priorities. In executing these activities, the Administration shall establish mechanisms to ensure participation of non-Federal entities, State and local governments, United States industry, institutions of higher education,

worker organizations, professional organizations, and nonprofit organizations.

Sec. 202. Life Cycle Assessments.—Directs the Director of the Office of Science and Technology Policy, as part of activities carried out in Section 201, to coordinate ongoing Federal activities in life-cycle assessment to facilitate the development and utilization of life-cycle data and methods for greater environmental sustainability and industrial efficiency. To the extent feasible, this program shall draw on existing resources and focus on disseminating information through electronic networks.

Sec 203. Environmental Technologies in Ongoing Programs.—Amends selected statutes in science and technology to explicitly provide the authority to conduct research and development in environmental technologies.

SUBTITLE B—ENVIRONMENTAL TECHNOLOGY

Sec. 211. Environmental Technologies Development and Integration Program.—Establishes a program to promote the development of technologies that enhance economic growth and the more environmentally sustainable use of materials and energy through cost-shared research, development and demonstration of advanced technologies, and the innovative integration of technologies and materials flows. Encourages the Administrator to cooperate with other agencies that have appropriate technical expertise in executing this program.

Sec. 212. Environmental Remediation and Monitoring Technologies.—Directs the Administrator, the Secretary of Energy, the Secretary of Defense and other heads of agencies that the President deems appropriate to, within one year, jointly submit to Congress a plan for the timely development, demonstration, and deployment of innovative pollution control, remediation, and monitoring technologies.

Sec. 213. President's Total Environmental Quality Award and National Environmentally Sound Technology Award.—Amends the Stevenson-Wydler Technology Innovation Act of 1980 to establish an award, modeled on the Malcolm Baldridge Award and using to the fullest extent practicable Malcolm Baldridge Award procedures and facilities, recognizing organizations that have made exceptional progress in the research, development and use of environmental products, processes or service. Also provides authority to grant National Environmentally Sound Technology Awards to individuals for outstanding environmentally sound technology innovations.

Sec. 214. Incorporation of Information on Environmental Technologies into Existing Networks.—directs the Administrator, in cooperation with the Department of Commerce and heads of other appropriate agencies to use existing electronic information network capabilities of the Federal government to provide access to data on environmental technologies developed, tested, or vertified in this Act and other appropriate Federal and non-Federal sources. Authorizes the Administrator to engage in partnerships with State and local governments or existing technical information outreach services such as manufacturing extension programs to facilitate the transfer of technology.

Sec. 215. Use of Federal Facilities for Environmental Technology Demonstration.—Establishes a program to authorize the use of Federal facilities to demonstrate innovative environmental technologies, and to develop data that would clarify the performance characteristics of those technologies.

Sec. 216. Federal Acquisition and Use of Environmentally Efficient Building Materials.—Directs the Administrator to establish a three-year pilot program to promote research on, and development of, environmentally efficient building materials in the construction of new Federal facilities and buildings and in existing Federal facilities and buildings.

TITLE III—EDUCATION

Sec. 301. Environmentally Advanced Education.—Directs the National Science Foundation to provide assistance to colleges and universities for enhancing technical curricula to incorporate environmental sustainability and total cost accounting principles.

Sec. 302. General Education in Environmental Technologies.—Directs the Director of the Office of Research and Development in cooperation with the Director of the National Science Foundation and State and local governments to develop curricula, materials, and training and information dissemination programs to provide greater understanding of the relationships between technology and the environment for technical schools, and primary and secondary education.

TITLE IV—STANDARDS

Sec. 401. Performance Standards.—Authorizes the Secretary of Commerce, in cooperation with the Administrator and other Federal and non-Federal entities, to establish a program to support the clarification of standards of performance for environmental technologies, particularly those directed toward ensuring quality, performance, and substitutability for conventional products, and to support international harmonization activities.

Sec. 402. Verification of Environmental Technologies.—Authorizes the Administration to enter into joint agreements with State and local government organizations and private entities to operate centers that would verify, evaluate, and disseminate performance and cost information on environmental technologies appropriate for meeting the performance criteria of various regulations.

Sec. 403. Consumer Claims on Environmental Technologies.—Directs the Federal Trade Commission to conduct a study of scientific and technological information needed for the fair evaluation of commercial performance claims regarding environmental technologies, and to develop and implement a plan for the close collaboration with Federal agencies and Departments that have expertise in environmental technologies to assure the use of the best available information.

TITLE V—INTERNATIONAL PROGRAMS

Sec. 501. Findings.

Sec. 502. International Environmental Technology Demonstration.—The Administrator, in cooperation with the Secretaries of Commerce and Energy, to the maximum extent practicable using existing programs, is authorized to support international environmental technology demonstrations for the purpose of promoting U.S. exports and the contribution of U.S. environmental technologies to sound international economic development through the provision of data and information on U.S. technologies and services. These activities would be conducted in regions of the world that are determined to have the largest environmental needs and which represent major opportunities for the contribution of U.S. technology and services.

Sec. 503. Promotion of Environmental Technology Exports.—Directs the Secretary of Commerce, in consultation with the Administrator and the heads of other appropriate agencies, using to the maximum extent practicable existing programs of the Federal and State governments, to provide information that would enhance the export of environmental technologies manufactured by U.S. firms by making more accessible information regarding international markets and regulations, and export financing opportunities.

Sec. 504. Financial Assistance for Technology Adaptation to Promote Exports.—Establishes the Environmental Technology Export Revolving Fund to provide financial assistance, in the form of loans and loan guarantees, for the modification and demonstration of environmental technologies manufactured by U.S. companies to meet the requirements of major export markets and enhance worldwide environmental sustainability.

TITLE VI—FINANCIAL AND REGULATORY INCENTIVES

Sec. 601. Use of Environmental Technology Products by the Federal Government.—Directs the President to establish a program for evaluating and approving the purchase of environmental technology products.

Sec. 602. Study of Regulatory Influences on Innovation in Environmental Technologies.—Directs the Administrator to undertake a review of current environmental regulations and their effect upon innovation in environmental technologies. Requires a report to Congress within one year of the enactment of the Act.

Sec. 603. Study of the Impact of Tax Incentives on Innovation in Environmental Technologies.—Directs the President to review existing tax incentives and potential tax incentives to encourage innovation in environmental technologies, and to report to Congress.

## TRIBUTE TO RED HALL

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a very special man who is a native of the Fourth Congressional District of Texas, Mr. Red Hall.

Although Mr. Hall and I share the same last name, unfortunately, I cannot claim any relation to him. However, I would like to relate to this body his story.

Red Hall was born in Farmersville, TX—a small town in Collin County north of Dallas. Interestingly, this is the home town of another famous individual—Audie Murphy, the most decorated veteran of World War II.

Like Audie Murphy, Red Hall served his country in World War II. Following that, he owned and operated the Oklahoma City Bottling Co. for 27 years. And, my colleagues from my neighboring State of Oklahoma will certainly be familiar with Mr. Hall's son, David, who served that State as Governor during the 1970's.

However, despite this illustrious record as a patriot Air Force captain, successful businessman, and proud father, the reason I rise today is to recognize Red Hall's more recent accomplishment.

At the National Senior Olympics held in June at Baton Rouge, LA, Red set a world record for his age division. He ran 1,500 meters in 17 minutes and 22.26 seconds. That

may not seem very fast until you know that his age bracket is 90 to 94. You see, Mr. Speaker, world record-holder Red Hall is 92 years old. And not only did he set this new record, but he won a silver medal for the 100 meter dash.

When asked about his accomplishments, Red said, "If I can influence [people] to take care of themselves, I think I'm doing them a favor."

Mr. Speaker, as we adjourn today I suggest we do ourselves a favor and adjourn in honor of the influence of Red Hall and his accomplishments.

## GREG WYATT HONORED FOR TREMENDOUS ACHIEVEMENTS

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of Mr. Greg Wyatt, the sculptor-in-residence at Cathedral Church of St. John the Divine in New York, a long-term appointment to a Renaissance studio within the crypt of the world's largest Gothic cathedral. Mr. Wyatt resides in Manhattan where earlier this year, borough president Ruth W. Messinger proclaimed Wednesday, May 26, 1993, Greg Wyatt Day.

Mr. Wyatt is president of the Fantasy Foundation Fund, incorporated in 1984 as a not for profit corporation to cultivate, promote, and sponsor the understanding and study of the fine arts, especially but not limited to the art of sculpturing. The fund holds competitions and exhibits and engages in other artistic activities related to the advancement of the fine arts. Their apprenticeship program is a prototype for the national arts organization. The fund boasts a decade of accomplishments and has encouraged apprentices beginning at the elementary level through college. In doing so, it provides a rare opportunity for apprentices to gain further insight into the Renaissance craft tradition.

Mr. Wyatt's works are found in private and corporate collections throughout the country. He has completed commissions for J.C. Penney Co., Inc.; American Broadcasting Co.; Sports Illustrated; Macy's, Princeton University; the National Arts Club and the Newington-Cropsey Foundation among many others. Following his outstanding exhibition at the Metropolitan Museum of Art, Greg Wyatt was invited recently by Dudley House Graduate Student Center of Harvard College to place three heroic-scale works on the brick pavement in front of Lehman Hall in Harvard as part of a major sculpture exhibition.

Currently, he is building a 17-ft. bronze monument, "Soul of the Arts," for the new museum of the Newington-Cropsey Foundation, Hastings-on-Hudson, New York. A homage to the Hudson River School of Painting, it contains images that beckon a spiritual and artistic Renaissance. It will be placed within the small pond directly in front of the Academy of Art of which he has been named director.

His work has also been exhibited in the rotunda of the Cannon House Office building in 1992 and in mid-September 1993 in the rotunda of the Russell Senate Office building. It was an exhibit created by Mr. Wyatt and his apprentices to demonstrate the teaching and creative processes of his studio. The exhibit featured two- and three-dimensional models of monuments, plexiglass architectural models, and numerous computer rendered images, bas-relief sketches and anatomical studies.

His apprentices participated in a youth symposium, "Excellence in Education Beyond the Classroom," moderated by Mr. Wyatt, and discussed the values of art apprenticeship programs. That important decision on the need for apprenticeship education in America was held in conjunction with Mr. Wyatt's, "Birth-By-Fire: A Renaissance in Bronze," exhibit.

Participants in a panel discussion on "Creating An Art Renaissance in America" included: Thomas J. Polecki, principle of the South Bronx's renowned St. Augustine School of the Arts; Carrie Rebora, director of the Henry R. Luce Center at the Metropolitan Museum of Art; Ivonne A-Baki, artist-in-residence at Dudley House on the Harvard campus; and David W. Heleniak, immediate past president of the MacDowell Colony, Inc., an artist colony in Peterborough, NH.

Finally, the exhibit here last September was specially created for the Washington, DC, community to demonstrate how students' potential for learning can be enhanced through creative apprenticeship educational programs, and the role these programs play in developing higher levels of professional achievement.

Because of his tremendous achievements, I hope my colleagues will join with me today in honoring Greg Wyatt for his work and wish him the best in the future for his art and his apprenticeship program.

## INTRODUCTION OF NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT OF 1966 AMENDMENTS OF 1993

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. KILDEE. Mr. Speaker, BILL GOODLING and I are today introducing a bill containing amendments to the National School Lunch Act and Child Nutrition Act of 1966.

These amendments propose changes in a number of the areas that need to be addressed in the 1994 child nutrition reauthorization, and we welcome comment on the amendments and broader reauthorization issues in the months ahead.

The child nutrition programs are an essential tool for ensuring that our youth have a chance to reach their potentials and become productive citizens. In the next several months the Congress will put a lot of time and energy into reforming health care and elementary and secondary education, but good nutrition is the cornerstone of good health and the prevention of disease, and hungry children cannot learn.

We cannot expect to curb costs in health care if we do not focus on prevention, and we cannot expect children to take advantage of new reforms in the classroom if they are tired, distracted, and irritable because they have not been fed.

The amendments that we are proposing today would provide greater access for needy children to the National School Lunch and Summer Food Programs and provides the first steps toward simplifying program administration.

We are pleased to be joined today by our colleagues LYNN WOOLSEY and TOM SAWYER, who are introducing bills concerning the Child and Adult Care Food Program and School Breakfast Program, respectively.

We look forward to working with them and the rest of our colleagues in the months ahead to craft a child nutrition reauthorization bill that provides greater access to meals, improves their nutritional content, and streamlines the administration of these important programs.

## TRIBUTE TO DR. HELEN S. FAISON

### HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. COYNE. Mr. Speaker, I want to salute today Dr. Helen S. Faison, an outstanding educator in the city of Pittsburgh who retired recently after 43 years of service in the public schools of Pittsburgh.

It is fitting that the U.S. House of Representatives should pay tribute to Dr. Helen S. Faison. This woman has embodied the ideals of educational excellence throughout her career. She has served the public schools of Pittsburgh in a number of positions, including teacher, activities director, counselor, vice principal, principal, and assistant superintendent, office of school management. At the time of her retirement, Dr. Faison was the deputy superintendent for school management.

Dr. Faison has been a pioneer in opening doors of opportunity for educators in the public schools of Pittsburgh. She was herself a trailblazer when she became the first female and the first African-American principal of a secondary school in the Pittsburgh public school system. She has also given her strong support to professional organizations including the American Association of University Women, Administrative Women in Education, Pi Lambda Theta, the National Council of Negro Women and the Greater Pittsburgh Alliance of Black School Educators.

Numerous civic organizations have benefited from her leadership roles. She served as chairman of the board of directors of the Negro Educational Emergency Drive. She has also been a member of the board of directors for Children's Hospital of Pittsburgh, television station WQED, and Health America. She is also member emerita, board of trustees for the University of Pittsburgh. In addition, she has been an advisory board member of the Pitt Engineering Impact Program and the Three Rivers Shakespeare Festival, and she has also been a member of the Harriet Tubman Guild, the Young Women's Christian Association, and the George Washington Carver Commemorative Committee. Finally, Dr. Faison is proud to be a life member of the National Association for the Advancement of Colored People.

Over the years, Dr. Helen S. Faison has gained stature and great respect in the city of Pittsburgh and the Nation for her work as an educator. She has been awarded numerous awards and honors, including the Outstanding Educator Award of Hand-in-Hand, Inc.; the University of Pittsburgh Alumnae Award; Election to the "Executive Educator 100" list; appointment to the Superinendent's Work Conference held at Teachers College, Columbia University and participation in the First Leadership Training Conference for Women conducted by the American Association of School Administrators.

Dr. Faison has brought to her work as an educator a dedication to serving others that has been rooted in her love for her family, especially her husband, George, and her commitment to her church.

Mr. Speaker, the city of Pittsburgh is proud to have had Dr. Helen S. Faison serve in a position of leadership at the public schools of Pittsburgh. She deserves the thanks of her community and of the Nation for working so hard over 43 years to prepare future generations of Americans for the challenges that they may face in the future.

## MINING LAW REFORM COSPONSORS

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. RAHALL. Mr. Speaker, Thursday by an overwhelming majority, the House approved legislation to reform the Mining Law of 1872, H.R. 322. I would like to thank all of the Members who voted for this bill, and in particular, the bill's cosponsors.

In this regard, when the committee report accompanying H.R. 322 was filed we were precluded from being able to add any additional cosponsors to the bill. At the time, four Members had wished to be added to the list of cosponsors. Since we were not able to officially add their names, I would like to take this opportunity to recognize them. The Members are MARTIN SABO of Minnesota, TOM ANDREWS of Maine, MAURICE HINCHEY of New York, and GARY ACKERMAN of New York.

## KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

AFFIDAVIT

SOURCE A

c. The source alleged that the setup conspiracy was facilitated through fabricated civil rights and embezzlement allegations by complainant Jose Liberato. In addition, Mr. Liberato recently made similar allegations against a New York Sanitation Official.

d. The source alleged that complainant Rene Suarez knowingly perjured himself at trial relative to his involvement in criminal activity and prior criminal record. The source alleged Mr. Suarez using an alias was previously arrested in New York City and is reputed to be a kingpin of a major Cuban gambling operation, which operates an unlicensed casino.

e. The source alleged complainant Richard Kinipping is a co-conspirator in a large scale loan sharking operation involving New York City bodegas. It should be noted officer Occhipinti was initially indicted for an unlawful search at Mr. Kinipping supermarket, however, that count was dismissed by the prosecution.

f. Source "A" was immediately referred to various law enforcement organizations in order to document these allegations. He was interviewed by the FBI and Detectives of the Bergen County Sheriffs Department. The source agreed to work with law enforcement in order to infiltrate the Federation and expose the setup conspiracy.

g. The source was debriefed by members of Staten Island President Guy Molinari's staff. The interview was tape recorded.

SOURCE B

a. The source confirms the testimony provided by Source A relative to the alleged setup conspiracy and involvement in suspected criminal activity by certain members of the Federation.

b. The source alleged that he spoke to a board member of the Federation, who stated that the Federation's name was being misused by persons attempting to stop officer Occhipinti's activities in the community. The Board member postulated that the entire matter smelled of a set up.

c. The source alleged that the principal Coconspirator in the set-up conspiracy were complainant Jose Liberato and Federation President Simon Diaz.

d. The source alleged that he was told by several members of the Federation that they had received calls from Mr. Liberato and/or Mr. Diaz urging them to falsely testify against officer Occhipinti regarding searches and seizures conducted at their businesses.

e. The source alleged that one of the complainants had told the source on two occasions that officer Occhipinti conducted a lawful search of his place of business and that complainant Reymundo Tejada knowingly perjured himself in the Grand Jury regarding the civil rights violations.

f. The source stated that complainant Nurys Brito admitted to the source that the search at her travel agency was lawful. In a consentually monitored conversation, Ms. Brito confirmed the above. Ms. Brito alleged that the US Attorney translator most probably misinterpreted what she declared.

g. On December 12th, 1991 the source executed an affidavit attesting to the above. Exhibit "G".

h. During the period of December 1991 until present, the source had numerous consentually monitored conversations with the individuals enumerated above. In those conversations said individuals corroborated what the source alleged in the affidavit.

i. The Source was debriefed by members of Staten Island Borough President Guy Molinari's office, relative to the above testimony.

SOURCE C

a. The source is an Executive Board Member of the Federation who has served since the early eighties, and knows all it's members on a personal level.

b. The source said that he received a call from Federation President Simon Diaz warning him of an impending investigation of Federation members and an article to be released by the Post attacking the Federation. The source stated that he was concerned with having his name used by complainant Liberato in his activities against Occhipinti.

c. The source admitted that he knew that the Federation was involved in the loan business and that some of it's members ran the loan process of Capital National Bank. Capital National Bank's top officials were indicted and implicated in a series of irregularities including money laundering and illegal wire transfer activities.

d. The source confirmed what I learned in a personal conversation with Federation Vice President Erasmo Taveras. In that conversation, Mr. Taveras revealed that complainant Liberato did not sneeze without first consulting with Federation President Simon Diaz. Mr. Traveraz was recently convicted of illegal money wire transfers involving over $70 million dollars.

The source stated that Federation President Diaz and complainant Liberato served as officers of a failed banking institution. The Dominican Hispanic Bank, Inc., as it was called, was closed because of alleged criminal activity. The source stated that he was scared and that he did not want Diaz nor Liberato to know of his cooperation. Exhibit "H"

SOURCE D

a. The source is a housewife who resides in the Washington Heights section of Manhattan.

b. The source in a sworn affidavit stated that while food shopping at Mr. Liberato's bodega, the source overheard Mr. Liberato boasting that "he was going to find people to make declarations against the federal agent that had gone to his business.

## TRIBUTE TO MEYLING LY FOR HER WINNING ESSAY ON PREVENTING DRUG ABUSE

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. HALL of Texas. Mr. Speaker, it is a pleasure to recognize today Meyling Ly, a seventh grade student at O.P. Norman Junior High School in Kaufman, who was recently awarded a $50 U.S. savings bond for her prize-winning essay in the fifth annual Kaufman County Red Ribbon Campaign for the prevention of drug abuse.

Miss Ly received the award on October 23, 1993, at Mulberry Park in Forney during kickoff activities for the drug awareness campaign October 23–31 In her essay, she pointed to the need to begin education at home and also for a "united, close community." She called for an organized crime watch program as well as increased police patrols.

Her essay reads in part, "Striving to eliminate and terminate drug use can't be done alone. We need cooperation from parents at home, educators, churches, law enforcement agencies, just about everyone to join together."

I commend Miss Ly and all those who participated in the red ribbon campaign for their

efforts to increase public awareness of the drug abuse problem in our society and their suggestions for how to combat it. The red ribbon campaign was sponsored by the Kaufman County Drug Abuse Prevention Committee and the Texas Agricultural Extension Service. Rita M. Winton, county extension agent, and Sylvie Millson, chairperson of the committee, were instrumental in making this event a success.

Other members of the Drug Abuse Prevention Committee include Edna Beltz, secretary; Pat Adams, treasurer; Albert Davis, Rhitt Jackson, Rita Kent, Don Legg, Mary Lyons, Jack Millson, and Inez Williams. Also contributing to the event were Kaufman PALS—Peer Assistance Leaders, Kemp PALS and Crandall PALS.

Miss Ly is the daughter of Mr. Kein Augly and Ms. Heng Muy Soang. The theme of the campaign was "No Excuse . . . For Drug Abuse." I was pleased to participate in the day's events, which featured a family fun run/walk, speeches, performances by bands, cheerleaders, and drill teams. During the week participants wore red ribbons and T-shirts, attended educational programs, and held a red balloon release.

The red ribbon campaign was established when Federal agent Enrique Camarena was murdered by drug traffickers in 1985. The red ribbon became the symbol to reduce the demand for drugs. Kaufman County began participating in the event in 1989.

Mr. Speaker, in addition to honoring Miss Ly for her outstanding essay, I wish to recognize the contributions of Ms. Winton, Ms. Millson, and all those who are dedicated to drug prevention and public awareness in Kaufman County.

## TRIBUTE TO ELEANOR KAHLE

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Ms. KAPTUR. Mr. Speaker, I rise today to recognize an outstanding citizen in my community. Eleanor Kahle has been a sterling voice for seniors in northwest Ohio and our Nation. As she retires this week from her duties as executive director of the West Toledo Senior Center, we wish to recognize her for a lifetime of selfless service.

In the late 1970's, Eleanor Kahle organized West Toledo area seniors into a strong coalition which was able to bring forth the West Toledo Senior Center in 1979. Today over 15,000 members strong, the West Toledo Senior Center is widely regarded as the most vocal, well-informed, and active group of seniors in our community. Its members proudly call themselves the swingingest senior center in the city of Toledo, and continuously live up to that ideal. Although no one individual can take credit for the center's success, Eleanor Kahle has been the seniors' guiding light since the center's inception. It is she who has shaped it into the prominent local force it has become.

In 1981, Eleanor Kahle was a delegate to the White House Conference on Aging. She was a leading voice for seniors as the coming decade's policies were formulated. When I began my term in Congress in 1983, Eleanor Kahle served as my special assistant for senior citizen concerns, providing me with invaluable assistance as the Congress deliberated Social Security reform that year. Since that time, I have looked to her for learned advice and counsel on issues as they relate to senior citizens.

At the age of 77, Eleanor Kahle serves on Toledo's City Council and is the city's current vice mayor. First elected to Toledo City Council in 1987, Eleanor Kahle has recently been reelected to another term. Throughout her tenure on the council, she has been a tireless advocate for our city's seniors, with a particular emphasis on issues of housing. Yet in spite of her unwavering advocacy for Toledo's seniors, she is a responsible representative for all Toledoans. She has also been a tireless promoter of our city, forging sister city relationships with cities in Hungary, Poland, and China.

Prior to her career in public service, Eleanor Kahle was an integral part of her parish, St. Clement's Catholic Church, breaking new ground for women when she served as a pastoral associate—a position she developed beyond what the parish initially envisioned. While a pastoral associate—the highest ranking female in the church—Eleanor Kahle provided pastoral ministry to seniors, served as outreach for the sick and shut-in, acted as a counselor to those in need, supervised rectory and sacristy staff, coordinated parish activities, and served as communications director through the organization and distribution of the parish newsletter. Although her prominence as a woman made it difficult for her at times, Eleanor Kahle's devotion to her ministry won her the respect of the church leadership, and enabled her to play a vital role in a growing and prosperous church. While serving as a pastoral associate at St. Clement's, it was one of the largest churches in its diocese with more than 2,300 families. She has also served as president for the Toledo Diocesan Council of Catholic Women and Church Women United of Toledo. Eleanor Kahle was a trailblazer for women in the Catholic church through the 1970's, and continues to promote prominent roles for women in the Catholic church today.

Eleanor Kahle has worked hard on behalf of our community for decades, but she will tell you that her proudest achievement is her family. Widowed with six young sons, she raised them all into successful adults who have given her sixteen grandchildren and two great-grandchildren.

A lifetime of awards have been bestowed upon this ordinary woman who has quietly attained greatness. A few of these include the President's Award—of the NWO Area Office on Aging, the Mother Adelaide Award, WIC's Women of Achievement, Ohio BPW's Woman of the Year Award, Ohio's Senior Citizen Hall of Fame Award, and the city of Sylvania's Hall of Fame Award.

She may be stepping down as executive director of the West Toledo Senior Center, but Eleanor Kahle remains active in a number of other community ventures. In addition to her city council service, she has been a part of the Center for Women's Concerns, Zonta, the Toledo Council of Senior Citizens, Ohio Gerontological Association, National Council on Aging, Toledo Metro Churches United, Business and Professional Women's Club, Community Relations Commission of St. Clement's Parish, Church Women United of Toledo, the Diocesan Council of Catholic Woman, Diocesan Commission on Aging, AARP, and the Older Women's League.

We in Toledo are profoundly grateful to this genteel and unassuming lady who has devoted herself to the betterment of all of us, even as she concentrated her efforts on women and seniors. No stronger advocate for our community exists than Eleanor Kahle, and as we take the time to recognize her on her retirement from the West Toledo Senior Center, we offer a collective and heartfelt thank you.

## TRIBUTE TO CECIL K. WATKINS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. TOWNS. Mr. Speaker, I rise today to salute Mr. Cecil K. Watkins, president and CEO, National Pro-Am City Leagues Association Inc. He was born and raised in New York City. He attended John Adams High School where he played varsity basketball and baseball. Cecil continued his sports interests at Adelphi University where he earned his bachelor of arts and masters degree in sports administration.

Cecil Watkins worked for the New York Park and Recreation Department and the Board of Education for 20 years. He retired from his position as a teacher and director of community recreation. Throughout his professional career Cecil was involved in a number of prominent sports programs including: the Harlem Tennis Center, U.S. Youth Games, Ray Felix Tournaments, NBA/Pro-Am Basketball League, and the ELMCOR Youth & Adult Activities Inc., of which he is the founder and former executive director.

Among his other achievements, for 18 years Cecil Watkins was employed by the National Basketball Association as director of community and special programs. He also served as referee development administrator in charge of development and recruiting programs and worked as an NBA observer-scout for 5 years prior to joining the staff full-time as the assistant supervisor of officials. For four seasons he assigned and supervised the Continental Basketball Association's referee staff and coordinated 26 NBA/Pro-Am city leagues.

In addition to coordinating programs, Cecil has been instrumental in acquiring more than 1,600 scholarships over the past 30 years for student athletes from the Metropolitan New York area. Cecil Watkins is acknowledged as a pioneer in sports recreation and development programs in New York. His efforts have been largely responsible for providing countless inner city youths with positive outlets to express themselves and grow through their participation in sports. It is my honor and pleasure to highlight the vast accomplishments of Cecil K. Watkins.

## INTRODUCTION OF THE HEALTH SECURITY ACT OF 1993

### HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. GEPHARDT. Mr. Speaker, today I am proud to join with 99 of my colleagues in introducing the Health Security Act of 1993. The bill we are introducing is President Clinton's health care reform proposal, and represents a historic commitment by the Clinton administration and the Congress to provide to the American people the security of guaranteed, affordable coverage for high quality health care.

The President's proposal, as embodied in this legislation, is by far the most thorough and comprehensive legislative proposal to achieve health care reform in the history of our Nation. The bill we are introducing today is the result of a process of development that was in itself historic in its scope and depth. I salute President Clinton, First Lady Hillary Rodham Clinton, the President's Cabinet, and many other members of the Clinton administration for their dedication and hard work in producing this proposal.

The most important goal of the Health Security Act of 1993 is to do away—forever—with the anxiety too many Americans feel today about their health insurance: that it will cost more than they can afford; that they can't get coverage or will lose it; that it won't cover what they need.

The introduction today of the Health Security Act demonstrates in concrete form the dedication of the Clinton administration and the cosponsors, who include the House Democratic leadership and the Chairs of the major committees and subcommittees of jurisdiction, to ensure that every American has health insurance. Their names on this legislation signal our shared commitment to pass a bill that halts the devastating spiral of health care costs and preserves and enhances the high quality of American health care we all value so highly.

Today's introduction also marks the beginning of another historic process: full congressional deliberation of truly comprehensive health care reform. The congressional experts in all of the committees of jurisdiction will hold numerous and thorough hearings on every aspect of the proposal. We will examine every issue and listen to every perspective. We will work closely with outside experts and the administration to bring forward a vote on a bill that has the support of the American people and a majority of their representatives in the House.

I want to take this opportunity to comment on the legislation that the committees will be receiving. Every effort has been expended to make this a high-quality document that they can work effectively with. I believe that these efforts have been successful, and I want to acknowledge and thank the Office of the Legislative Counsel, David Meade, for their major contribution. Wade Ballou, Douglass Bellis, John Buckley, Bob Cover, Susan Fleishman, Peter Goodloe, Stan Grimm, Jean Harmann, Larry Johnston, Greg Kostka, Ed Leong, Noah Wofsy, and especially Ed Grossman devoted long hours of hard work, as well as their expertise and talent, and have served the House and the American people well in getting us off to a solid start.

I look forward with great anticipation to working with the President and my dedicated colleagues in Congress to give the American people what they expect and deserve: the security of guaranteed, affordable access to the best health care in the world.

## DEMETRIS KASTANAS HONORED FOR TREMENDOUS ACHIEVEMENTS

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the tremendous achievements of an important member of the Astoria community in Queens, NY, Mr. Demetris Kastanas.

On February 18, 1968, Demetris Kastanas came to this country from his homeland of Greece like so many before him looking for a better life and future in this country. After working in a number of different jobs, including pumping gas and selling insurance, Mr. Kastanas managed to save enough money to open his first restaurant. A second restaurant soon followed.

As a successful businessman in his adopted country, Mr. Kastanas felt that he had to give something back to the community and his Hellenic heritage. On September 25, 1975, Mr. Kastanas began producing a weekly Greek television program which was broadcast in the New York metropolitan area. In July 1983, Mr. Kastanas expanded to the Chicago area. And in 1987, Mr. Kastanas began producing the Greek Channel on the Time-Warner Cable system in Queens and Brooklyn. This channel is the first and only Greek cable channel in the United States.

Mr. Kastanas was also not satisfied with contributing in just the television medium. That's why he also founded a Greek-American magazine entitled "Eseis." This name was chosen because it is the plural form of "you" in Greek, underlying that the magazine addresses itself to the needs and views of the Greek-American community.

Through his television programs, cable channel, and magazine, Demetris Kastanas has given Greece and Greek-Americans a voice in the United States that might otherwise not have been heard. His tremendous leadership has been evident in organizing rallies and demonstrations on the Cyprus issue which have communicated clearly the Greek-American community's strong feelings on this subject.

Mr. Kastanas' work has provided Greek-Americans with a link to their homeland, producing articles and programs which portray Greek news, folklore, music, and more. But his contribution has also been to help other Greek immigrants to assimilate into life in the United States by creating a vital source of support for the community.

Because of his tremendous contributions on behalf of his homeland and his adopted country, I hope my colleagues will join with me in saluting Demetris Kastanas for his accomplishments.

## THE HEALTH SECURITY ACT OF 1993

### HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. FORD of Michigan. Mr. Speaker, I am pleased today to sponsor the introduction of President Clinton's health care reform bill, the Health Security Act of 1993.

As we all know, the President has made reform of a troubled health care system the top priority of his administration. It was the primary plank of his Presidential campaign platform, and after the inauguration, President Clinton put in charge of developing a reform plan a person in whom he had the greatest confidence, First Lady Hillary Rodham Clinton.

I must, say, Mr. Speaker, the First Lady has confirmed to us the President's confidence, having produced—with the contributions of hundreds of administration officials, congressional staff and consultants from all sectors of society—a sweeping reform plan that retains aspects of the health care system that do work, while targeting for change elements that have proven inefficent and unfair.

We must have health care reform. While Americans who have adequate health insurance are satisfied with the care they receive from their doctors, all of us are burdened by a system that in many ways is broken.

I want to outline some of the problems we have. Health care and insurance costs are skyrocketing. Every year, insurance premiums, whether paid by individuals or their employers, are rising well above the general inflation rate.

The health care choices many of us have taken for granted are diminishing. Faced with increasing costs, many employers offer a single insurance plan, often with skimpy benefits. And every year, thousands of businesses, faced with rising costs, drop coverage for their employees.

Cost-shifting grows. People without insurance end up in the emergency room—and the bills they cannot pay result in higher premiums for those of us who still have it.

The stacks of paperwork related to each patient's care have turned into a mountain. Doctors and nurses spend more time filling out forms and less time taking care of their patients. The ranks of hospital administrators are growing four times faster than that of doctors. We're paying for all that paper.

The cost of prescription drugs is forcing many of our senior citizens to choose between food and medicine.

The challenge, Mr. Speaker, is daunting. That is why, whatever each of us may think of the particulars of this bill, we applaud the President for presenting a comprehensive solution.

The Health Security Act would guarantee comprehensive health care benefits to every American as a right of citizenship. These benefits would be available regardless of any preexisting condition, regardless of employment

status. It would preserve choice, allowing Americans to keep the doctors they have. In fact, many Americans would have more choice than they have now.

We have no doubt that the President's proposal will be changed as it makes its way through Congress. Every significant Presidential proposal I have been involved with, dating back to Lyndon Johnson's ambitious Great Society initiatives, has been modified on Capitol Hill. That will certainly be the case with a proposal that promises to alter almost one-seventh of our economy and to touch the life of every single American.

Over the next several months, the various committees of jurisdiction in the House, including the Committee on Education and Labor, will hold hearings, debate provisions and finally report a bill to the floor for a vote. As we formally begin this process, I am confident that we will enact, before the end of this Congress, comprehensive health care reform.

Mr. Speaker, we must do no less.

## ENHANCING TECHNOLOGY TRANSFER FROM FEDERAL LABORATORIES

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mrs. MORELLA. Mr. Speaker, in the 102d Congress, I introduced H.R. 191, the Technology Transfer Improvements Act of 1991. The bill sought to bolster our Nation's international competitiveness by encouraging the continued collaboration of Government and private industry. Specifically, H.R. 191 would have amended the Stevenson-Wydler Technology Innovation Act of 1980, in order to promote technology transfer for works prepared under certain cooperative research and development agreements [CRADA's] between Federal laboratories and private industry. My distinguished West Virginia colleague from the other body, Senator ROCKEFELLER, introduced S. 1581, the Senate companion bill.

In the previous Congress, four hearings in the House and Senate were held on both H.R. 191 and S. 1581. The bills received strong support from the administration and a series of Federal agency officials, as well as a broad spectrum of academicians and industry association representatives. The hearings sparked a very beneficial debate on the current role of our Federal laboratories in our Nation's global competitiveness.

Ultimately, H.R. 191 was reported out of the House Science, Space, and Technology Committee and was passed by the House as an amendment to the American Technology Preeminence Act. S. 1581 was reported out of the Senate Commerce, Science, and Transportation Committee but was not passed by the Senate.

In order to further continue the debate which we began in the previous Congress, I am very pleased to, once again, be joining forces with Senator ROCKEFELLER, the distinguished chairman of the Senate Science, Technology, and Space Subcommittee. Today, I am introducing the House companion bill to S. 1537, a bill which Senator ROCKEFELLER had previously introduced in the Senate on October 7. I look forward to holding hearings in the House Science, Space, and Technology Committee on this bill during the next session, hearing of potential concerns from interested parties, and working with Senator ROCKEFELLER to enact this important legislation.

Mr. Speaker, there is no doubt that Congress is concerned about America's competitive position. To affirm this point, we need only to have listened to yesterday's debate on the North American Free-Trade Agreement [NAFTA]. I believe the economic advances of the 21st century are rooted in the research and development performed in laboratories around the world today. Therefore, our future well-being as a nation becomes dependent upon the continuous transfer of basic science and technology from the laboratories to commercial goods and services.

Congress has long tried to encourage the transfer of technology and collaboration between the labs and industry. The 1980 Stevenson-Wydler Technology Innovation Act was Congress' first significant measure to foster technology transfer from Federal labs to the private sector. that landmark legislation was expanded considerably in 1986 with the Federal Technology Transfer Act, and again in 1989, with the National Competitiveness Technology Transfer Act. These laws explicitly instruct the Federal labs to seek commercial opportunities for their technologies and to make technology transfer a job responsibility of every Federal scientist and engineer.

This is eminently logical since Federal laboratories are one of our Nation's greatest assets. Yet they are also a largely untapped resource of technical expertise. There are over 700 Federal laboratories throughout the Nation, occupying one-fifth of the country's lab and equipment capabilities, and employing one of every six scientists in the United States. Representing Montgomery County, MD, I am fully aware of the high-quality work and the vital role which Federal laboratories play in our Nation's research and development. Our Nation's future economic well-being is too important to exclude the resources and abilities of our Nation's Federal scientists.

Mr. Speaker, the text of the Technology Transfer Improvements Act of 1993 follows:

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Technology Transfer Improvements Act of 1993".

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

(1) The commercialization of technology and industrial innovation are central to the economic, environmental, and socal well-being of citizens of the United States.

**SEC. 3. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.**

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended as follows:

(1) In the text of subsection (b) immediately preceding paragraph (1), strike "Government-operated Federal laboratory, and to the extent provided in an agency-approved joint work statement, a Government-owned contractor-operated laboratory, may" and insert "Federal laboratory shall ensure that title to any intellectual property arising from the agreement, except intellectual property developed in whole by a laboratory employee, is assigned to the collaborating party or parties to the agreement in exchange for reasonable compensation to the laboratory, and may".

(2) In subsection (b)(2), strike "or in part".

(3) Amend subsection (b)(3) to read as follows:

"(3) retain a nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party or parties for any intellectual property arising from the agreement, and have such license practiced throughout the world by or on behalf of the Government, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license;".

(4) Amend subsection(b)(4) to read as follows:

"(4) retain the right, in accordance with procedures provided in regulations promulgated under this section, to require a collaborating party to grant to a responsible applicant or applicants a nonexclusive, partially exclusive, or exclusive license to use the subject intellectual property in any field of use, on terms that are reasonable under the circumstances, or if the collaborating party fails to grant such a license, to grant the license itself if the laboratory finds that—

"(A) the collaborating party has not taken, and is not expected to take within a reasonable time, effective steps to achieve practical application of the subject intellectual property in the field of use;

"(B) such action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

"(C) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the collaborating party; or

"(D) the collaborating party has not entered into or is in breach of an agreement made pursuant to subsection (c)(4)(B).".

(5) In subsection (d)(2), strike "and" at the end;

(6) In subsection (d)(3), strike the period at the end and insert "; and".

(7) At the end of subsection (d), insert the following new paragraph:

"(4) the term "intellectual property rights' means—

"(A) in the case of government-owned, government-operated Federal laboratories, patents; and

"(B) in the case of government-owned, contractor-operated Federal laboratories, patents, copyrights, and computer chip mask work registrations.".

**SEC. 4. DISTRIBUTION ON INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.**

Section 14 of the Stevension-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended to read as follows:

**"SEC. 14. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL AGENCIES OR LABORATORIES.**

"(a) IN GENERAL.—

"(1) Except as provided in paragraphs (2) and (4), any income received by a Federal agency or laboratory from the licensing or assignment of intellectual property under agreements entered into by Federal laboratories under section 12, and intellectual

property of Federal agencies or laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency or laboratory and shall be disposed of as follows:

"(A)(i) The head of the agency or laboratory or his designee shall pay to the laboratory employee or employees who have assigned their rights in the intellectual property to the United States, to the laboratory operator, or to a collaborating party or parties to a research agreement an amount equal to the sum of—

"(I) the first $10,000 received by the agency or laboratory from the intellectual property; and

"(II) 15 percent of any income received by the agency or laboratory from the intellectual property in excess of the sum of the amount paid pursuant to item (I) and the value of unreimbursed research and development resources provided by the laboratory under the terms of the agreement.

"(ii) An agency or laboratory may provide appropriate incentives from royalties to laboratory employees who contribute substantially to the technical development of licensed or assigned intellectual property between the time that the intellectual property rights are legally asserted and the time of the licensing or assigning of the intellectual property rights.

"(iii) The agency or laboratory shall retain the income from intellectual property until the agency or laboratory makes payments to laboratory employees under clause (i) or (ii).

"(B) The balance of the income shall be transferred to the agency's laboratories, with the majority share of the royalties or other income going to the laboratory where the intellectual property originated, and the income so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which it is received or during the succeeding fiscal year—

"(i) for payment of not more than 15 percent of such income for expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to intellectual property which originated at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(iii) to further scientific exchange among the laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency.

All income retained by the agency or laboratory after payments have been made pursuant to subparagraph (A) and (B) that is unobligated and unexpended at the end of the fiscal year succeeding the fiscal year in which the income was received shall be paid into the United States Treasury.

"(2) If, after payments to employees under paragraph (1), the intellectual property income received by an agency and its laboratories in any fiscal year exceeds 5 percent of the budget of the laboratories of the agency for that year, 75 percent of such excess shall be paid to the United States Treasury and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any income not so used or obligated shall be paid into the United States Treasury.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which the employee is otherwise entitled or for which the employee is otherwise eligible, or limit the amount thereof. Any payment made under this section to any employee shall continue after the employee leaves the employment of the laboratory or agency.

"(4) A Federal agency receiving income as a result of intellectual property management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, may retain such income to the extent required to offset the payment of income from intellectual property under paragraph (1)(A)(i), and costs and expenses incurred under paragraph (1)(B)(i), including the cost of foreign protection of the intellectual property of the other agency. All income remaining after payment of the income, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the intellectual property from which the income is derived was assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency; or

"(2) by an employee of the agency who was not working in the laboratory at the time the intellectual property was originated;

"the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—

"(1) In making its annual submission to the Congress, each Federal agency shall submit, to the appropriate authorization and appropriations committee of both Houses of the Congress, a summary of the amount of income received from intellectual property and expenditures made (including employee awards) under this section.

"(2) Not later than October 1, 1996, the Comptroller General shall review the effectiveness of the various income-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, the Comptroller General's findings, conclusions, and recommendations for improvements in such programs.".

**SEC. 5. AMENDMENT TO BAYH-FOLE ACT.**

Section 210(e) of title 35, United States Code, is amended by inserting "and the Technology Commercialization Act of 1993" after "Federal Technology Transfer Act of 1986".

## TRIBUTE TO MELINA LHOTAN FOR HER WINNING ESSAY ON WHAT WE CAN DO TO STOP DRUGS

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. HALL of Texas. Mr. Speaker, I am pleased today to recognize Melina Lhotan, a seventh grade student at Forney Middle School who was a recent winner in the fifth annual Kaufman County Red Ribbon Campaign for her essay on what we can do to stop drugs.

The campaign, held October 23–31, 1993, was sponsored by the Kaufman County Drug Abuse Prevention Committee and the Texas Agricultural Extension Service. I had the pleasure of meeting Miss Lhotan October 23 at Mulberry Park in Forney during the kickoff event.

Miss Lhotan pointed to the need for families to discuss the problems and dangers of using drugs and the importance of education through school programs. Her essay reads in part, "Everyone will know someone in their life that will start doing drugs, and I hope that our education will help us to help them. Talk to your little brothers and little sisters and help the future."

"My mother says 'Educate, Communicate, Graduate and Stay Straight.' I like that," Miss Lhotan concluded.

I like that philosophy, too, and I commend this young person for her commitment to education. She is the daughter of Mr. Richard Lhotan and Mr. and Mrs. James and Danice Gibson. I also want to acknowledge all those in Kaufman County who contributed to the success of this red ribbon campaign.

Rita M. Winton, county extension agent, and Sylvie Millson, chairperson of the County Drug Abuse Prevention Committee, devoted many hours to this event. Other committee members include Edna Beltz, secretary; Pat Adams, treasurer; Albert Davis, Rhitt Jackson, Rita Kent, Don Legg, Mary Lyons, Jack Millson, and Inez Williams.

Also contributing were Kaufman PALS, Peer Assistance Leaders, Kemp PALS, and Crandall PALS. The theme of the campaign was "No Excuse . . . For Drug Abuse." The day's events featured a family fun run/walk, speeches, performances by bands, cheerleaders, and drill teams. Activities for the week included displaying red ribbons, wearing the red ribbon T-shirt, education programs, a red balloon release, and other school-related programs. As an essay contest winner, Miss Lhotan received a $50 U.S. savings bond.

The red ribbon campaign originated when Federal agent Enrique Camarena was murdered by drug traffickers in 1985. The red ribbon became the symbol to reduce the demand for drugs. Kaufman County participated for the first time in 1989.

Mr. Speaker, in addition to congratulating Miss Lhotan for her excellent essay, I wish to recognize Ms. Winton, Ms. Millson, and the many others who have devoted much time and effort to drug prevention in Kaufman County.

## THE PENNY-KASICH AMENDMENT

### HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. ROSTENKOWSKI. Mr. Speaker and my colleagues, you are by now well aware of my reservations about H.R. 3400. It is a combination of bad policy, poor timing, and good intentions. In my view, it would be best if we simply

adjourned for the year without further budget debates, knowing full well that we will face these debates—and real discussion about further reducing our deficit—again next year. We have already approved nearly $500 billion in deficit reduction this year. We are unlikely to accomplish any more real progress this year. Let us admit it.

Today, however, in keeping with the commitment I made at the Whip meeting and to several of my colleagues, I want to share with you my even more serious reservations about the Penny-Kasich substitute to H.R. 3400.

At first blush, many of you may find Penny-Kasich appealing. After all, its proponents promise more than $100 billion in deficit reduction through what they would have you believe are easy, even painless, cuts. Be careful, my friends. They are promising you more than they can deliver. The cupboard is bare. There are no more easy and painless cuts to be had.

The cuts included in this amendment are by no means painless. Think about it. I do not consider $34 billion in Medicare cuts directed at senior citizens to be painless. Do you? And I think we are kidding ourselves if we think we can further reduce discretionary spending below the hard freeze we adopted as part of this year's budget process. There is real pain in that freeze; do we really have the stomach for more?

The Penny-Kasich amendment also includes the usual assortment of recycled budget proposals—things that have been rejected as unworkable, bad policy, or inappropriate on numerous occasions. But they get included in proposals like this to make it look like it is easy to achieve big savings. The reality is we will not enact these proposals. Let us not kid ourselves.

Let us not kid ourselves either about the proposal to further consolidate social services funding. It makes no sense at a time of rising demands in our cities—and elsewhere—for social services. If Members truly are concerned about the growing number of families who must rely on welfare, they will see the Penny-Kasich proposal on social services for what it is: A step backward in our efforts to end welfare as we know it.

I am most bothered, however, by the $34 billion in Medicare cuts proposed in the Penny-Kasich amendment. Remember, these cuts are on top of the $56 billion in Medicare savings that we approved as part of OBRA 1993 just this past August. And, in OBRA we were able to shield beneficiaries from experiencing much pain by targeting our reductions on providers. This proposal would impose significant, new, out-of-pocket expenses on senior citizens who already spend three times more for health care than the under-65 population.

For those of you worried about efficiency and Government bureaucracy, I urge you to keep your eye on Penny-Kasich. Our Federal bureaucracy is likely to mushroom if this amendment becomes law. IRS will become an even bigger brother, developing income data on millions of Medicare beneficiaries so that another Federal agency—HHS—can match that information with the records for upward to $11 million hospital stays. That is a computer nightmare. Do you really think that this confidential information should be so widely available? And is it appropriate for hospitals—who ultimately charge patients for their services—to have access to the patient's private income information? Under Penny-Kasich, the hospital will need it. Do not underestimate the havoc that these new policies will wreak with Medigap insurance either.

The proposal for a 20-percent coinsurance on home health services is equally troubling. It will impose a big, new, regressive burden on some of the oldest and frailest of our elderly citizens. Is that what we were sent here to do?

Finally, consider the implications of your vote on Penny-Kasich for next year's health care reform debate. Not only is that the more appropriate forum for discussing these health issues, but those savings—if we choose to make them—are integral to financing health reform. Paying for health reform won't be easy, my friends.

Here is the bottom line on the Medicare cuts in Penny-Kasich: We should not ask Medicare beneficiaries to contribute $34 billion to a deficit reduction plan that does not ask other American citizens to make a comparable contribution. That's just not fair.

For the benefit of Members, below is a detailed analysis of the provisions of the Penny-Kasich amendment that fall within the jurisdiction of the Committee on Ways and Means. Again, I urge you to read this carefully, and to think about the implications of your vote on this amendment. The Penny-Kasich amendment is a disaster waiting to happen:

THE PENNY/KASICH AMENDMENT—ANALYSIS OF PROVISIONS

*Fees for applications for alcohol labeling and formula reviews (section 325).*—The Penny-Kasich plan would impose a fee intended to cover part of the cost of approving all alcoholic beverage labels and of performing laboratory analyses to determine if beverage content is in compliance with Federal law.

Analysis: Congress recently evaluated this proposal and rejected it in the context of budget reconciliation. The proposal is troublesome and short-sighted because the costs of collecting the labeling fee could well outweigh the amounts collected. (The Administration made a similar argument with respect to the special occupational tax in its REGO proposals.)

*Increase in SEC registration fees (section 326).*—The Penny-Kasich plan would increase certain registration fees paid by corporation to the Securities Exchange Commission ("SEC") in order to offset costs of the SEC. This increase would be in effect through September 30, 1998. (H.R. 2519, the recently-enacted legislation providing appropriations for the SEC, included a similar increase in a more limited category of SEC fees; however, this was a temporary, one-year, measure pending the anticipated enactment of a revamped fee system next year.)

Analysis: The SEC already collects far more in fees than is needed to cover the costs of its regulatory activities. Therefore, the proposed increase in registration fees is not needed to offset the SEC's costs. Instead, it is a tax on corporations that register securities. There simply is no justification for singling out corporations which are registering their securities to bear the burden of a tax increase.

*Travel, tourism, and export promotion fees (section 327).*—The Penny-Kasich plan would require each State that "participates in marketing activities or tourism promotion abroad thought the U.S. Travel and Tourism Administration" to pay a fee "in an amount determined by such Administration so that the total receipts from such fees shall equal the budget of such Administration."

Analysis: This proposed fee raises serious concerns. It would push the financing of the United States Travel and Tourism Administration ("USTTA") onto the States, which themselves are struggling with serious fiscal difficulties. Moreover, it is inconceivable that the USTTA could establish a fee structure that would raise enough money to cover its budget without asking some "participating" States to pay for more than the benefits they actually receive. Instead, it is likely that some States would end up paying more than their fair share to the Federal government—which obviously raises serious constitutional issues.

*Consolidation of certain social services programs into a single block grant program (section 504).*—This proposal would merge two broad block grants to the States with several targeted programs to form a single block grant for social services. Funding under the block grant would equal 4 percent less than combined funding under the original programs.

According to preliminary documents, the programs affected include three programs over which the Committee on Ways and Means has full or shared jurisdiction: the social services block grant, which is Title XX of the Social Security Act, and two new child care grant programs established by Congress in the 1990 budget bill (the "At-Risk" Child Care Program under the AFDC statute, and the Child Care and Development Block Grant). Also included in the combined grant would be the community services block grant, services and meals for the aging, and dependent care planning and development grants. These latter programs are under the jurisdiction of the Committee on Education and Labor.

Analysis: This proposal not only threatens critical social services funding, but, if enacted, also would undermine Congress' recent attempts to reduce welfare receipt and encourage self-sufficiency among low-income families.

In justifying this savings proposal, proponents argue that it would eliminate duplicate services and allow services to be provided more efficiently, thereby reducing administrative costs. However, there is no evidence regarding the level of administrative savings, if any, that would result from consolidating these programs, and the proposal could reduce the availability of social services to low-income individuals and families. In fact, the Congressional Budget Office, which included a similar provision in its yearly compilation of deficit reduction options, acknowledges this risk: "Despite improved administrative efficiency, a 5 percent cut in funding [the CBO option] could lead to a reduction in services."

Furthermore, of even greater concern is the high likelihood that Federal funding to States for social services will erode considerably over the long haul under a consolidated grant, relative to current program structures. This will occur for several reasons, including that Congress will be unable to define Federal priorities and that little information will be available to Congress on the use and value of the funds. The history of Title XX social services block grant demonstrates this result. Since various social services funding streams were fully consolidated into the Title XX grant in 1981, funding for the grant program has eroded by over 40 percent after adjusting for inflation.

Finally, in deciding to spend scarce Federal dollars on social services activities, the

Federal government has a legitimate interest in the use of the funds to achieve national objectives, and a legitimate concern that certain groups that are not politically powerful—such as children—benefit from the funds. Thus, while maintaining a flexible Title XX grant program, Congress in recent years has directed new Federal funding at issues that are priority areas for the nation, but often undervalued by State and local taxpayers. Most notable among these efforts is welfare reform, and it is at this effort that the At-Risk Child Care program and the Child Care and Development Block Grant are targeted.

Congress in recent legislation has recognized that the key to reforming welfare is to expand opportunities and obligations for parents receiving welfare to secure and keep meaningful jobs. The 1990 child care legislation, following on the welfare reform legislation enacted in 1988, is an important element of this strategy to ensure that low-income families who work are better off than they would be on welfare. Under this legislation, Congress expanded the earned income tax credit substantially, and targeted child care funding at low- and moderate-income families through two grant programs. These child care grant programs are helping thousands of families participate in work-related activities. More important, they are helping to support the work effort of thousands of families who, without such support, would be at-risk of falling onto the welfare rolls.

If Members are concerned about the growing demands in their communities for social services, and the growing number of families who are relying on income from welfare programs, they should be concerned about the Penny/Kasich proposal to consolidate social services funding. This proposal is shortsighted and will undermine the efforts this Congress already has made to reform welfare in this country, and it will make "ending welfare as we know it" even more difficult next year.

One version of this proposal also would have converted what are predominantly entitlement funds for social services to a discretionary status. Adopting such an approach would further and seriously jeopardize Federal funds to States for social services.

*Medicare (sections 603–607).*—The Penny/Kasich amendment would reduce Medicare spending through five proposals that would increase beneficiary contributions. Three of these proposals have been put forward by previous Administrations, and have been rejected by the Congress. The fourth proposal, to means-test the hospital deductible paid by Medicare beneficiaries, was included in the Republican budget package earlier this year, and was rejected. A fifth provision would establish a prospective payment system for home health services under Medicare.

According to summary documents provided by Penny/Kasich, the proposal would achieve over $34 billion in Medicare savings from beneficiaries. The Congress just enacted $56 billion in Medicare savings as part of the Omnibus Budget Reconciliation Act of 1993.

Analysis: Enacted apart from broad health care reform, the Medicare proposals in the Penny-Kasich amendment would be financially burdensome to Medicare beneficiaries and would undermine future efforts to achieve health care reform.

Keep in mind that seniors already spend more out-of-pocket for health care than the under-65 population. Seniors spent slightly more than 3-times as much per person out-of-pocket than those who are younger than age 65, according to the Congressional Budget Office. The Penny/Kasich amendment would widen this disparity in benefits, and do so with a regressive policy that targets the most physically impaired senior citizens.

1. *Means-Test Inpatient Hospital Deductible.*—The amendment would establish a new, means-tested deductible of up to $2,000 for a hospital stay for individuals with adjusted gross incomes of $70,000 or more, and married couples with adjusted gross incomes of $90,000 or above beginning in 1994. The deductible would be computed on a sliding-sale basis. For each $5,000 increment above the $70,000 or $90,000 threshold, the deductible would increase by 33 percent. Under current law, the inpatient hospital deductible is not means-tested; it will be $696 in 1994, and is indexed annually.

For married individuals who do not file a joint tax return, the amendment sets a threshold amount of zero if the individuals do not live apart for the entire year. Such individuals would thus be subject to the increased deductible no matter how low their incomes.

Within 60 days after enactment of the Penny-Kasich amendment (and by November 1st of each subsequent year), each Medicare beneficiary would be required to provide to the Secretary of HHS an estimate of their modified adjusted gross income for the year. Using this information, the Secretary would determine an applicable inpatient hospital deductible for each hospital admission.

Upon request, the Secretary of the Treasury would provide to the Health Care Financing Administration the taxpayer information needed to determine the modified adjusted gross income of any Medicare beneficiary for the purpose of determining the appropriate inpatient hospital deductible.

The Secretary of HHS would use the Treasury information to reconcile IRS information with the self-reported income for each Medicare beneficiary that had an inpatient hospital stay. In the case of an individual who had been charged a deductible that was inappropriately high, Medicare would refund the difference to the beneficiary. If, however, the deductible that was charged turned out to be too low, Medicare would recoup the difference from the hospital. The beneficiary would be liable for payment to the hospital.

Analysis: This proposal would force 35 million elderly and disabled Medicare beneficiaries to report their expected income to the Secretary of HHS each year. This is likely to generate anxiety and confusion for beneficiaries since no such reporting requirement currently exists. It is also likely to result in erroneous reports unless HHS functions as a "shadow IRS" and instructs individuals how to estimate their modified adjusted gross income.

This provision would also create an administrative burden for the Department of Health and Human Services, and the Internal Revenue Service (IRS). The IRS would be required to create a new data file with the names, taxpayer identification numbers and adjusted gross income for each Medicare beneficiary whose income exceeded the defined threshold amount in the most recent tax year. HHS would have to match as many as 11 million Medicare hospital stays against the IRS-provided income file to determine appropriate payment amounts for hospitals on a case-by-case basis.

While the bill assumes implementation in 1994, it is questionable whether the IRS could prepare the necessary data file in time for such immediate implementation. In addition, HHS does not have the resources to implement this entirely new and complex function.

The proposal raises concerns regarding the disclosure of confidential taxpayer information as well. Under current law, the IRS is authorized to disclose tax information to HHS only for purposes of verifying the employment status and group health plan coverage of Medicare beneficiaries and their spouses; no income information is generally disclosed for such purposes. By contrast, under the Penny-Kasich amendment, specific income information on millions of taxpayers would be disclosed to employees of HHS and, at least indirectly, to thousands of hospitals and their employees. Disclosure of this type and magnitude could have a significant adverse effect on the voluntary tax system.

This proposal also would wreak havoc with Medigap insurance and would drive up premiums. Most Medicare beneficiaries, particularly those with higher incomes, have private Medicare supplemental ('Medigap') insurance that covers the inpatient hospital deductible. If this proposal is implemented, Medigap insurers would be required to pay the higher deductible amount for some beneficiaries and would therefore need to determine the incomes of policy-holders in order to predict their liability and set premiums.

In addition, hospitals should also expect new administrative burdens under the Penny/Kasich amendment, hospitals would pursue beneficiaries or their Medigap insurers to collect, if Medicare applied an inappropriately low deductible. Hospitals would need to know the income of beneficiaries in order to anticipate cash flow from Medicare, Medigap insurers, and beneficiaries. Most troubling, hospitals would be able to derive the confidential income of individual Medicare beneficiaries by reviewing those that were subject to the higher deductible.

Note also that the current Medicare hospital deductible is much higher than deductibles imposed by most private insurance. For example, even under the highest cost sharing benefit package proposed in the Clinton health care reform plan, the annual deductible for an individual would be $200, covering both inpatient hospital and outpatient services. By contrast, Medicare requires a $100 deductible for outpatient services in addition to the $696 hospital stay deductible. Moreover, the inpatient hospital deductible can be charged multiple times each year for Medicare beneficiaries with multiple hospital stays.

It is hard to justify a policy that widens the current disparity between deductibles incurred by senior citizens, relative to the deductibles typically paid by the general population.

2. *Income-Relate the Part B Premium.*—The amendment would, for the first time, income-relate the Medicare part B premium. The premium would increase at least threefold for individuals with incomes in excess of $70,000 and couples with incomes in excess of $90,000. For individuals with incomes in excess of $95,000 and couples with incomes in excess of $115,000, the premium would quadruple. The amount of the premium increases for beneficiaries with incomes in between these amounts would be determined on a sliding scale basis.

Using the expected income information provided by Medicare beneficiaries described earlier, the Secretary of HHS would determine the appropriate part B premium amount to be deducted from each beneficiary's monthly Social Security check.

The Secretary of HHS would reconcile IRS information with the self-reported income for each Medicare beneficiary. Any discrepancy would be corrected through the part B

premium deductions applied to future monthly Social Security payments.

Analysis: This proposal has been considered and rejected a number of times in recent years. The Administration has included a proposal that resembles this provision in its health reform plan; however, the Administration's policy is proposed within the larger context of health care reform, which provides substantial new benefits to senior citizens covered under the Medicare program in exchange for higher payments. Moreover, the Administration plan would be administered directly through the IRS and would not generate new annual income reporting requirements by beneficiaries. Finally, the Penny/Kasich proposal would income-relate the premium at a substantially lower income threshold than the Administration proposes, which could be considered a "middle class tax".

3. *Coinsurance on Home Health Services.*—The amendment would require Medicare beneficiaries to pay a 20 percent coinsurance on all home health services. For individuals with incomes at or below 150 percent of poverty, the coinsurance would be paid under the Qualified Medicare Beneficiaries program. Under current law, home health services are not subject to coinsurance. In addition, the amendment would establish a prospective payment system for home health services, effective on January 1, 1994.

Analysis: This proposal would impose a significant, new financial burden on Medicare beneficiaries who use home health services. The average home health user would be required by this proposal to pay close to $650 for home health services in 1993, and typically, beneficiaries would incur these new costs after paying the inpatient hospital deductible, which will be $696 in 1994. Older patients, who are relatively high users of home health services, would pay substantially more than the average.

This proposal also would require the Department of Health and Human Services to monitor the income of senior citizens, in order to implement the offsets for individuals with incomes below the 150 percent of poverty level. This raises the same administrative problems noted in the analysis of the means-tested deductible, in that HHS does not currently keep track of beneficiaries with incomes up to 150 percent of poverty.

Further, the proposal is a highly regressive tax on the oldest and most frail segment of the elderly population. If this amendment is adopted, seniors who are near-poor, with an income just above 150 percent of the poverty level (about $11,000 for an individual) will be billed hundreds, if not thousands, of dollars for home health services.

Under the Penny/Kasich amendment, a typical senior citizen with medical needs requiring home health services would pay about $800 in current deductibles plus $650 for the new home health coinsurance. These individuals would also be required to pay for other medical expenses that are not covered under Medicare, including the entire cost of their outpatient prescription drugs. Drug costs alone can reach thousands of dollars for a chronically-ill senior citizen.

Of course, those who are sickest, with the greatest need for extensive home health care services, will pay even more than these averages—in part because Medicare, unlike most employer-sponsored health plans, does not include a cap on out-of-pocket expenditures.

The Administration's health reform plan also includes a home health proposal but it differs in significant ways from the Penny/Kasich amendment. It is less onerous for beneficiaries, more easily administered, and is part of a broader health care reform which includes an expansion of home care benefits for beneficiaries. Further, the Penny/Kasich amendment would impose a 20 percent coinsurance on home health visits, rather than the 10 percent proposed under the President's plan. And, unlike the Administration's proposal, the Penny/Kasich amendment requires a coinsurance on visits that occur within 30-days after discharge from a hospital.

4. *Coinsurance on Clinical Laboratory Service.*—The amendment would require Medicare beneficiaries to pay 20 percent coinsurance on clinical laboratory services.

Analysis: This proposal would impose a new administrative burden on clinical laboratories. Because many laboratory claims are small, the administrative costs of collecting the 20 percent coinsurance amount would exceed the amount collected in many cases.

Coinsurance on laboratory services was eliminated in 1984 as part of a restructuring of clinical laboratory reimbursement. That restructuring also included a reduction in the fees paid for laboratory services and a requirement that all laboratories accept Medicare payment in full rather than billing beneficiaries for excess amounts.

## CHILD ABUSE AND NEGLECT ACCOUNTABILITY ACT OF 1993

### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. GOODLING. Mr. Speaker, today I am introducing the "Child Abuse and Neglect Accountability Act of 1993."

Mr. Speaker, child abuse or neglect is one of the most reprehensible forms of crime that I can think of, because it is perpetrated upon innocent and defenseless children. But there is another activity that I think is just as heinous; and that is making false accusations of child abuse or neglect. False reports of child abuse or neglect lead to unjustified and debilitating invasions into the privacy and sanctity of the family, and often lead to the break up of the very family that the current laws are designed to protect.

Under the current Federal law regarding child abuse and neglect, the States are required to provide total immunity for anyone who makes a report of child abuse or neglect. Now, I understand the intent behind this is to encourage people to report child abuse or neglect when they see it, but unfortunately this provision is short-sighted. This well intentioned provision has a glaring loophole—total immunity for any report of abuse or neglect means that even people who make reports of abuse or neglect when they know it is not true are immune from prosecution. But in the mean time, because of other statutory requirement, the police and child welfare workers must investigate the report. These investigations often take months or longer, and lead sometimes to the child, or children, being removed from their parents for the duration of the investigation. Even if the children are not removed, false reporting still stigmatizes the family, and can lead to huge legal expenses just to clear themselves.

You know it used to be the case that if someone got into an argument with you over something you did, they would threaten to sue you; well today they don't even make the threat of litigation, instead they can just make an anonymous false accusation of child abuse against you, and they will be totally immune from prosecution. Unfortunately, false reporting is being used these days, as well, by estranged spouses trying to gain an upper hand in a divorce proceeding.

A recent report by the State child welfare office in Pennsylvania shows that of all the reports of child abuse or neglect in 1992, fully two-thirds were unsubstantiated. Two-thirds, Mr. Speaker.

My bill would instill some accountability into this whole system, in order to reduce some of those unsubstantiated, yet damaging reports. Under my bill, anyone who makes a report of child abuse or neglect, or persuades a child to make such an accusation, without reasonably believing it to be true, would be subject to prosecution. In addition, if such a report was done with the intent to subject someone to criminal investigation, to gain an advantage in a civil proceeding, or to otherwise subject that person to public humiliation, then the penalties would be increased.

Again Mr. Speaker, I want to stress that child abuse and neglect is a horrible crime and any instance of it should be prosecuted with all due speed and to the maximum extent possible. However, I feel very strongly that in our efforts to protect children from this crime, that we have gone too far and in the process created a system that allows for abuse of another kind—abuse of the parents. My bill, the "Child Abuse and Neglect Accountability Act of 1993," will bring back some accountability to the system for false reports, in order to prevent this other type of abuse.

## TRIBUTE TO THE LATE DIONISIO GARCIA

### HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. GONZALEZ. Mr. Speaker, I am sure that everyone of us who serve in an office of public trust sometimes realizes there are some fellow citizens or friends who because of unique and singular and great character and personality traits stand out consciously. Perhaps, because they live and work in private endeavor and not in a public or political capacity, their values are relegated to relative obscurity. But among the segments of community and social activity in which they work quietly, but creatively and constructively, they are noted and honored.

One such San Antonian and American was my great and good friend of many years, in fact, going back to my high school and college years 60 years ago, Dionisio ("Nicho") or "Don" Garcia.

Nicho and I first met when I was in high school, and subsequently he was one of seven of us from San Antonio of Mexican descent (we were called Latin Americana there) that went to the great University of Texas in

Austin in September of 1937. It was the first time that that many entered college at the University.

We were all wallowing in the hard times of the depression. Nicho studied pharmacy and eventually earned his degree in that profession and became a pharmacist for over 50 years.

But he joined the Army when the war broke out in 1941 and served in Belgium and France.

Nicho stood out as a gregorious, happy, always smiling and very devout church going individual.

He married and formed a beautiful family to whom he was totally devoted until his death on October 8, 1993.

In fact, one of his children is a priest, Rev. Fr. David Garcia, who has given us an outline and short biography of his father, and which I ask be placed in the RECORD at this point.

NEWSPAPER OBITUARY FOR DIONISIO GARCIA

Dionisio (Don) Garcia, beloved husband, father, grandfather, brother, uncle, and friend entered into eternal rest at a local hospital on October 8, 1993, at the age of 77. Born August 12, 1916, in Roma, Texas, he was from one of the original Tejano families which still hold title to a land grant near Falcon, Texas given in 1750 by the King of Spain. He is survived by his wife of 50 years, Emma, and children Becky and Phillip De Leon of San Antonio; Anna and Robert Elizondo of Duluth, Georgia; Virginia and Art De Los Santos of Fairfax, Virginia; Father David Garcia of San Antonio; Letty and Tom Nolan of Aurora, Illinois; and Sylvia Garcia of San Antonio; Mr. Garcia also leaves 11 grandchildren: Phillip and wife Barbara of Berthoud, Colorado, Mark, David and Dulcie De Leon of San Antonio; Chuck and Steve Elizondo of San Diego, California; Mike Elizondo of Duluth, Georgia; Mike, Lucia and Christina De Los Santos of Fairfax, Virginia; and Jennifer Nolan of Aurora, Illinois. In addition, he is survived by three sisters: Anita Sandoval, Cata Gomez and Sarah Mayen of San Antonio, countless cousins, nieces, nephews, and world of friends. He was an extraordinary individual who was warm and generous, and touched the lives of hundreds. He took great pride in his children and grandchildren, and followed their achievements.

After graduation from high school in San Antonio, he graduated from the University of Texas at Austin, earning his pharmacy degree. He and Emma Vela were married on January 3, 1943, in Port Lavaca, Texas, and celebrated 50 years of marriage last January with a renewal of vows and a reception for family and friends. He joined the Army during World War II, and was stationed in Belgium and France. He practiced pharmacy for over 50 years and was the owner of Trinity Hospital on Buena Vista Street until his retirement. He continued in pharmacy part-time at the Stella Maris Clinic. He also earned his real estate license. He loved to paint, sculpture, and play the piano, harmonica, drums and trumpet. He was the life of every party. He brought a positive attitude to his everyday activities and had a wonderful sense of humor.

An active member and daily Mass attendant at St. Luke's Catholic, Church, he is the father of Rev. David Garcia, Vocation Director for the Archdiocese of San Antonio. "He was the eternal optimist—he never gave up. Dad always had a future project or goal he wanted to accomplish, and he instilled religious values and a strong work ethic in all his children," his son states. His daughter, Becky De Leon, adds "My father was the patriarch of our family, and lived a blessed life. He was the richest person I know—not so much in material goods, but in love of life, his humor, positive attitude, up-beat spirit and pride in his close-knit family. He was a very loving and generous father. We thank God for lending him to us. He was always an inspiration to us, and his rich qualities are treasured memories and the legacy he leaves behind. We will miss him tremendously. He died peacefully with faith, courage and dignity—just as he lived his life." Two highlights of his life included a general audience and Mass celebrated by Pope Paul VI in Rome, Italy, and meeting and shaking hands with Pope John Paul II during the Pontiff's San Antonio visit.

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[From Today's Catholic]

MAY THEY REST IN PEACE

DIONISIO GARCIA

Dionisio (Don) Garcia died on Oct. 8, 1993, at the age of 77.

Born on Aug. 12, 1916, in Roma, Texas, he was from one of the original Tejano families which still hold title to a land grant near Falcon, Texas, given in 1750 by the king of Spain.

After graduating from high school in San Antonio, he graduated from the University of Texas at Austin, earning his pharmacy degree. He married Emma Vela on Jan. 3, 1943, in Port Lavaca. He and Emma celebrated 50 years of marriage last January with a renewal of vows and a reception for family and friends.

Dionisio joined the United States Army during World War II. He practiced pharmacy for over 50 years and was the owner of Trinity Hospital on Buena Vista Street until his retirement when he began working part-time at the Stella Maris Clinic. He also earned his real estate license. His love of painting, sculpture and music—he played the piano, harmonica, drums and trumpet—made him the life of every party.

An active member of St. Luke's Church, he was the father of Father David Garcia, vocation director for the Archdiocese of San Antonio.

"He was the eternal optimist—he never gave up. He instilled religious values and strong work ethic in all his children," Father David says of his father.

Dionisio Garcia is survived by his wife, Emma; six children; 11 grandchildren; three sisters; and many cousins, nieces and nephews.

A rosary and prayer service was offered at St. Luke's Church on Oct. 11. Following a Funeral Mass on Oct. 12 in the same church, interment took place at San Fernando cemetery #2.

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GARCIA OWNED TRINITY HOSPITAL

Dionisio "Don" Garcia was a pharmacist more than 50 years.

He owned Trinity Hospital on Buena Vista Street until he retired in 1991.

Garcia, 77, died Friday at a local hospital.

He was born Aug. 12, 1916, in Roma. His family still holds the title to a land grant near Falcon, given to them in 1750 by the King of Spain, said his son, the Rev. David Garcia of San Antonio.

Garcia graduated from Old Main High School in 1934 and attended the University of Texas at Austin. Garcia became a practicing pharmacist in 1941.

On Jan. 3, 1943, he married Emma Vela in Port Lavaca. They had six children.

Garcia joined the Army and was stationed in France and Belgium during World War II, his son said.

Upon his return, Garcia began working at the Saenz Clinic. About four years later, Dr. Daniel Saenz sold the clinic to Garcia and it became the Trinity Clinic, a 20-bed hospital. The name later was changed to the Trinity Hospital, his son said.

He retired in 1991 and concentrated on his craft projects, his son said.

Garcia was an amateur painter and sculptor, and played several musical instruments.

"Dad always had a future project or goal he wanted to accomplish," his son said. "He loved music and art."

Garcia attended daily Masses at St. Luke's Catholic Church, his son said.

"He instilled strong religious values and a strong work ethic in all his children," he said.

Garcia also met Pope John Paul II when he visited San Antonio in 1987.

Additional survivors include his wife; five daughters, Becky De Leon and Sylvia Garcia of San Antonio, Anna Elizondo of Duluth, Ga., Virginia De Los Santos of Fairfax, Va., and Letty Nolan of Aurora, Ill.; three sisters, Anita Sandoval, Cata Gomez and Sarah Mayen, all of San Antonio; and 11 grandchildren.

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## WHERE ARE THE "NEW" DEMOCRATS?

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the November 19, 1993, edition of the Omaha World-Herald.

WHERE ARE THE 'NEW' DEMOCRATS?

The U.S. House vote on the North American Free Trade Agreement provided a revealing look at the political party that is now in control of the government.

President Clinton worked hard to get the measure approved. His fellow Democrats deserted him in droves. A total of 156 House Democrats voted to reject the agreement with only 102 voting for it. The 234-200 victory was possible only because 132 of the 175 Republicans came to the side of the president.

It should not be forgotten, moreover, that Republican Ronald Reagan proposed the agreement Nov. 13, 1979, when announcing his presidential candidacy. Nor that Republican George Bush negotiated the agreement, which was signed by his trade representative Aug. 12, 1992.

Nonetheless, it was a triumph for the Clinton administration. Clinton and Vice President Gore deserve credit for turning the issue around.

But whatever became of the "new Democrats" who urged the voters last fall, with considerable success, to send them to Washington?

New Democrats said they rejected the old doctrine that a Democrat must always vote pro-union, pro-entitlement, pro-big government. They promised a new age of realism in the Democratic Party, with moderation and fiscal responsibility. Above all, new Democrats claimed to understand how the economy works, how jobs are created. They would improve commerce and bring more prosperity.

The Clinton-Gore position of freer trade and enhanced regional economic ties was the logical stance for such Democrats.

But the union bosses snapped their fingers. Congressmen heard from Ralph Nader lobbyists, whose crabbed view of American life is rooted in anti-business philosophies. Greenpeace, the Sierra Club and other environmental groups applied pressure. There was even a feminist-driven effort to defeat NAFTA.

And old Democrats materialized by the dozens.

We commend Midlands Democrats who added pro-NAFTA votes.

But it's hard to be upbeat about the performance of many of their colleagues in the Democratic Party—people who are new Democrats only until big labor and the other mainstays of the old Democratic Party cash in their political IOUs.

## LEGISLATION TO AMEND OUR FEDERAL CHILD NUTRITION PROGRAM

### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 20, 1993*

Mr. GOODLING. Mr. Speaker, today I join Congressman DALE KILDEE, the chairman of the Subcommittee on Elementary, Secondary and Vocational Education in cosponsoring legislation outlining proposed changes in many of our Nation's child nutrition programs.

As a former educator I realized very early in my career the connection between educational achievement and child nutrition programs. Children who came to school without breakfast did not have the same energy as their peers who had eaten before they came to school. They did not focus their attention on their studies; they were hungry and it was a distraction. For these children, their school lunch was the only good meal they had each day—and I dread to think what they had to eat over the weekend.

We have made progress in our country. Many schools now have a school breakfast program to insure our Nation's children are starting each school day with the energy they need to be active participants in the educational process. More and more women are receiving nutrition supplements through the WIC program and producing healthier babies.

But our programs are not perfect. A recent study has indicated that our school lunch and breakfast programs are providing students with meals that our too high in their fat and sodium content. This certainly in an area which needs to be addressed. We need to improve the nutritional quality of the commodities we are providing to schools through our commodity distribution program. We also need to give our school food service workers assistance in developing meals which students will not only eat, but which are of high nutritional value as well.

Mr. Speaker, the legislation we are introducing today outlines some of the changes we are considering to our current child nutrition programs. I do not agree with all of the proposals contained in this legislation and am concerned about some of the funding increases which will be required to make some of the changes. As this bill works its way through the legislative process, I am committed to work to insure that these funds are spent in the best interests of the taxpayer. It is my intention to work with Chairman KILDEE throughout the reauthorization of the child nutrition programs to address these and my other concerns with this legislation. I thought, however, it was important for me to indicate my support for making changes which will improve the ability of our Nation's child nutrition programs to provide participants with healthy, nutritious meals.